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The judicial message in Seneca's Apocolocyntosis

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AN ABSTRACT OF THE THESIS OF Sylvia Gray Kaplan for the Master of Arts in History
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Title: The Judicial Message in Seneca's *Apocolocyntosis*

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Seneca's *Apocolocyntosis* is a satire on the deceased emperor Claudius, probably written in the early months after his death in AD54. Although the authorship and title of the work have been called into question, scholars have now reached a consensus that the satire was written by Seneca and is titled "*Apocolocyntosis*." Its purpose, characteristic of the Menippean genre, was didactic.

Although the meaning of the *Apocolocyntosis* has often been discussed, few have emphasized the predominance of the legal theme, when in fact the legal motif is the key to interpreting this work. The work satirizes Claudius particularly in his role as judge. Seneca hoped to influence Nero by this negative example toward good principles of rule, specifically toward observing established Roman legal custom in his role as judge.

An examination of Seneca's other works shows that he had no argument with the emperor's superior position. The emperor's powers included his role as

supreme judge of the empire as well as consequent wide discretionary prerogatives in judging cases and in setting punishments. Seneca believed, however, that the emperor's actions still should remain under the constraints of natural law. Seneca held that Roman law and natural law corresponded in their basic requirements that a case must have both sides heard before judgment is passed.

Within this thesis is compiled a substantial list of the legal references in the *Apocolocyntosis*. Claudius' judicial activity as noted in the *Apocolocyntosis* is correlated with that known from other sources. The victims mentioned by name in the *Apocolocyntosis* are listed with all references to their deaths in other sources also noted. This data confirms 1) that the legal motif is predominant; 2) that Seneca's criticism of Claudius was loosely based on historical fact; 3) that none of the named victims, as far as they can be traced in the other sources, actually experienced the process of a trial; and 4) that Seneca particularly decried cruelty in an emperor's use of his power.

In sum, in the *Apocolocyntosis* Seneca satirized Claudius' activities as judge by using the legal motif. The formal accusations against Claudius, however, were of murder. Thus Claudius' worst breach was shown to be by-passing legal procedure altogether, to the extent that some cases were not even heard. In doing so, Claudius not only exercised unnecessary cruelty, but also broke with natural law.

THE JUDICIAL MESSAGE IN SENECA'S *APOCLOCYNTOSIS*

by

SYLVIA GRAY KAPLAN

A thesis submitted in partial fulfillment of the
requirements for the degree of

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"He who has judged aught, with the other side unheard, may have judged righteously, but was himself unrighteous" (Seneca *Medea* 199, 200).

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CHAPTER I

THE *APOCOCYNTOSIS* OF SENECA

INTRODUCTION

The one Menippean satire which has survived from antiquity in a semi-complete form is Seneca's *Apocolocyntosis* (Sorenson 137; Martin 65). The work has been thoroughly examined by modern scholarship, if for no other reason than its unique representation of the genre. Its importance extends beyond the art form, however, for personal invective, political overtones, and a serious theoretical message may all be discerned in the work.

The *Apocolocyntosis* satirizes the deceased Roman emperor Claudius. It begins by describing his last moments of life, inserts a song of praise for the new ruler to come, and relates Claudius' attempts to enter heaven. Hercules is sent to inspect him and becomes his sponsor in spite of the fact that the goddess Fever, who claims to know him well, tells his true origins.

The one lacuna in the text is believed to have recounted Claudius' arrival at the Council of the Gods (*concilium deorum*) (Coffey 166). The gods then debate whether Claudius should be allowed into heaven. Things look hopeful until Augustus convinces them to exclude Claudius on the basis of illegally ordered executions, particularly of Augustus' own progeny and Claudius' own family.

As Mercury accompanies Claudius to the underworld, Claudius sees his own funeral procession taking place and overhears the dirge being sung. Above all, barristers are mourning him because the end of their livelihood is in sight. When Claudius arrives in the underworld he sees crowds of people whom he had executed, and many of them are mentioned by name. He is led to the tribunal of Aeacus and is accused of killing them. He has a difficult time finding a lawyer, and then is condemned without having been able to offer his defence. Debate is held on his punishment, and he is sentenced to play dice using a box with a hole in it. Ultimately he is made a law-clerk for a freedman of the previous emperor Gaius.

The satire is both witty and biting. A summary of the plot does no justice to

its mastery of both these intents. The personal proclivities of the man, all mentioned in other historical sources, are exploited fully, ranging from his physical defects to his weakness for history and literature.

I will set the *Apocolocyntosis* in context by discussing the Menippean genre and the author Seneca. In addition, I will look at expectations surrounding the emperor in regards to his relationship to the law and to his role as judge of the empire; I will discuss Seneca's personal view of the emperor's role; and I will present Claudius' own ideas of his role, as discernable by his words and actions.

In the *Apocolocyntosis*, the legal motif is predominant and provides the clue to understanding Seneca's major grievances with Claudius' administration. Claudius had carried his judicial authority beyond the limits of both human and natural law, and had used his authority for cruelty rather than for mercy. By satirizing Claudius the Judge, Seneca's caustic wit sugarcoats a didactic message directed toward Nero, hoping to influence him in an opposite, more humane direction.

AUTHENTICITY AND TITLE

For the past hundred years the *Apocolocyntosis* has inspired much speculative scholarship concerning its title, authorship, and purpose. Before launching into the main argument of this paper, namely, the purpose of this text, the problems surrounding the title and the authorship deserve some attention.

There are forty-five manuscripts of the *Apocolocyntosis* surviving to the present. The most authoritative of these, the Saint Gall, is also the oldest: it is dated to the late ninth century and written in a very small Carolingian miniscule, with the prose and poetry distinctively differentiated. Because it was preserved on a larger manuscript containing "dull" hagiography, it is suspected that an ignorant librarian thought that a spoof on a pagan emperor would fit in nicely as a contrast to the more worthy Christians' lives (Eden "MSS. Tradition" 150). Two other important manuscripts also help form the basis for the text we generally work with: the Valenciennes, which belonged to Huebald (AD840-930) and was donated to the St. Amand monastery, and the London, dated to the early twelfth century (Eden "MSS. Tradition" 150; Reynolds 361). After the early medieval period the first indication that this work was still available is a quotation by Radbert of Corbie

which has been dated to AD846 (Reynolds 361).

None of the manuscripts which have survived bear the title *Apocolocyntosis*. The currently accepted name derives from a small passage in Cassius Dio's History of Rome: "Seneca himself had composed a work that he called "Pumpkinification"--a word formed on the analogy of 'deification'..." (60.35.3).

The word *apocolocyntosis*, here translated "pumpkinification," is an invented word built from the Greek *colocynthe* (gourd), satirizing the word *apotheosis* (Ramage et al 90).

Objections to linking the present work with the one Seneca titled "Pumpkinification" have centered on two points: first, even the earliest manuscripts do not have the same title as that mentioned in Dio; second, and connected with the first, authorship can not be attributed to Seneca for various reasons. Neither of these contentions seem to be currently given serious weight (Coffey 168; Marti 25; Nauta 69; Toynbee 83),¹ but a quick rehearsal of the arguments is necessary for the solidity of this presentation.

Those who have questioned Seneca's authorship of the *Apocolocyntosis* have contrasted its cruel mockery of Claudius with the eulogiac funeral oration Seneca wrote for Claudius' death, as well as his praise of Claudius in the treatise *Consolatio ad Polybium*. Perceived discrepancies between statements made in the *Apocolocyntosis* and Seneca's other writings strengthen their case. Furthermore, later Roman authors who wrote about that time period do not mention the work; this has been considered reason enough to doubt its genuineness (Knoche100).

But the argument *ex silentio* does not carry enough weight. The style in the *Apocolocyntosis* has been shown comparable to that in Seneca's other writings, particularly to the *Hercules Furens* (Eden "Commentary" 131). The possibility that Seneca could write to suit various purposes has also been demonstrated. Conjectures have been made that the document was written for a discrete circle of people, not a broad audience, which would explain the lack of references to it in other literature. Furthermore, Seneca's personal grudge against Claudius provides a vindictive motive for the piece (Knoche 100, 101). These points will be supported more fully below.

Many of the extant manuscripts of the *Apocolocyntosis* have been titled *Ludus Senecae de Morte Claudii Neronis* (The Joke of Seneca on the Death of Claudius Nero). The most venerable manuscript, already noted, is entitled *Divi*

Claudii incipit apotheosis annei seneca per satiram and subscripted: *Divi Claudii explicit apotheosis annei senecae per saturam* (Eden "Mss. Tradition" 150; Ramage et al. 90; Coffey 166,7). None of them are entitled *Apocolocyntosis*. It was not until the sixteenth century that Hadrianus Junius and Curio connected the title *Apocolocyntosis* with the work found in these manuscripts (Ramage et al. 90; Eden "Introduction" 1).

The suggestion that the documents have different names than the work noted in Dio, and consequently are different works, can be deflected by the argument that the manuscript titles are merely descriptive and are probably just glosses which were eventually substituted for the original name (Knoche 99,100; Marti 24). Even in Dio's time an explanation was deemed necessary. Furthermore, the word *ludus* was sometimes used to describe the process of authorship, but never as part of a title until medieval times (Coffey 166). To have added the words *per saturam*--which means, "in a mixture of prose and verse" (Reeve 306)--would have been redundant. Finally, what would be the purpose of two vituperative pamphlets written by Seneca circulating at the same time?

It has also been argued that no gourd appears in the work and therefore the correlation cannot be correct. This objection has been answered several ways. For example, it is not unknown to find other works titled with a word not explicitly descriptive of the contents. Even the contemporary example of the *Satyricon* of Petronius lends weight to this argument, for the catchy title does not enter his text at all nor describe the contents (Eden "Introduction" 2). Many current scholars in fact believe that the title "*Apocolocyntosis*" is a joke in itself, simply a play on words (Eden "Introduction" 2; Marti 24,5; Knoche 99,100). The play between the invented word "*Apocolocyntosis*" and the more standard "*Apotheosis*," which is the subject of this satire, is widely acknowledged, and of course is the gloss which Dio provides (Dio 60.35.3; Coffey 167). The fact that there is no gourd in the satire, and that Claudius does not turn into one, does not necessarily militate against titling the work "*Apocolocyntosis*." On the other hand, it has been suggested the title satirizes an apotheosis--the pumpkin being the end product (Knoche 100).

The objections to Seneca's authorship therefore have been generally dismissed by reason of their improbability (Coffey 168; Knoche 99,100; Toynbee 83). Modern scholarship seems to agree that the work referred to in Cassius Dio and the work we have in hand are one and the same (Todd 103; Nauta 69).

Assuming that "*Apocolocyntosis*" is the correct title does not solve all the problems surrounding it. The meaning of the title itself has also provoked much speculation. For example, one recent article suggests that, based on Greek fragments of comedy, the word *colocynten* was a popular expression to refer to death. Diphilus jokingly referred to death as becoming "either a gourd, or a lily"; Alciphron called death "becoming a lily" (Mosino 240). In our own age a comparable dialectic Italian expression refers to death: *quandu u me cozzu faci fungi* (when my head will bring forth mushrooms) (Mosino 240). This article presents the title as a joke in itself, presuming a universality inherent in the expression (Mosino 240).

Haarberg, a linguistic scholar, argues that there is a universal "*pan-chronic*" "cucurbitic symbolism" found in many cultures, both ancient and modern, which uses the pumpkin-gourd-melon-cucumber as an image of both "life/death" and "absurdity or stupidity". He rejects the idea that if the word cannot be found in a comparable use at the writing of the *Apocolocyntosis* its meaning is not comprehensible. According to Haarberg, the universality of the symbol itself argues for this interpretation (Haarberg 111).

Another thorough linguistic study finally concludes that the title was not formal, but a conversational after-thought. This scholar compares Claudius to a common, fast-growing, perennial *cucurbita* (Heller 115,16).

On the other hand, one scholar actually finds a gourd within the work. The time and length he spends discussing the word may be taken as typical of the effort spent trying to unravel its meaning. This scholar agrees with most other current scholars that the title *Apocolocyntosis* fits the piece, but believes the title must refer to something within the satire. To find the link, he traces the use of the word *cucurbita* in Latin, finding examples both in Petronius and Apuleius. He argues that the connotation of "blockhead" is wrongly assumed, based on these other uses: rather the reference is to a baldheaded man or a round shape (Todd 102, 3). He speculates that gourds were used as dice boxes by the common people, such a commonplace that the practice is not documented, and that the *fritillus* with slots for the dice to fall through is the referent in the title (*Apocolocyntosis* 14,15; Todd 105-7). This ingenious analysis has been dismissed by others as bearing no evidence beyond conjecture (Martin 65; Heller 115 fn. 58).

Another scholar also agrees that the word refers to something round. He

believes, however, that the lack of "*praeputio*," which makes Claudius round like a gourd, and then at the end of the work his being "passed from hand to hand" like a ball, are the referents in the title (*Apoc.* 8.1; 15.1,2; Athanassakis 22).

After reading the theories on the title, which multiply as fast as the plant itself, I can only believe that "*Apocolocyntosis*" was an in-explicit but highly connotative word attached to the work as a cheerful joke in itself. Seneca probably did not spend ten minutes thinking about it.

DATE AND OCCASION

The date of the *Apocolocyntosis* has generally been given as AD54, and the work is assumed to have been circulated immediately following Claudius' death. The earliest it could have been written was right after the death of Narcissus, who is the person last to die who is mentioned in the work. The terminology in the first line of the work, referring to the *anno nouo*, coupled with the topic of Claudius' death, suggests that it was not written any later than one calendar year from his death (Eden "Introduction" 4,5).

Further arguments have strengthened the contention for an early date. First, Narcissus greets his master by a short cut, "gleaming fresh" from a bath (*Apocolocyntosis* 13.2). The "short cut" may refer to Narcissus' suicide, which is speculated in antiquity. He had been at the baths of Sinuessa for treatment of his gout, and when imprisoned after Claudius' death, he quickly committed suicide (Tacitus *Ann.* 12.66; 13.1; Dio 60.34.4; Eden "Commentary" 137). The allusion in the *Apocolocyntosis* implies action that had just taken place (Luisi 178). Moreover, that British tribes were "*now*" worshipping Claudius as a god implies that the news of Claudius' death had not had time to reach them yet (*Apocolocyntosis* 8.3; Luisi 181). The use of the Menippean genre, which generally deals with the present or recent past, also argues for an early date (Mazzoli 195,7).

Various theories have been proposed for the occasion of its writing. One elaborate theory, now superseded, proposes that Seneca wrote the work for the celebration of the Neronia in AD60 as a bid to retain his position when his influence was beginning to slip (Toynbee 85-92). Another proposes that it was written for Nero's inauguration. This conjecture is based on the "Golden Age terminology" praising the new reign of Nero (*Apocolocyntosis* 4; Eden

"Introduction" 4,5; Momigliano *Claudius* 97-9). Yet another connects the work with the "sconsacrazione," or deconsecration of Claudius (Suetonius *Claud.* 45; *Nero* 33; Luisi 178).

Although these suggestions have been intricately argued, none is quite so convincing as that offered recently by Nauta. His argument lends substance to previous speculation, that the work may have been written for the following Saturnalia which would have begun on December 17, only two months after Claudius' death (Eden "Introduction" 5).

Nauta argues that the probable audience for the first presentation of the *Apocolocyntosis* was Nero and his close friends assembled for a special occasion, probably in expectation of an oral delivery (Nauta 75, 78). He stresses that the work would not have been intended for either the senate or the populace, for it ran counter to the official stance toward Claudius' memory (75). Nauta does not find it hard to believe that there was an official glorification and simultaneously a private scoffing at the whole idea of deification, which is, he believes, "the primary object of ridicule in the *Apocolocyntosis*" (75). This contention is confirmed by the oft-noted passage in Tacitus which records that at Nero's reading of Claudius' eulogy, written by Seneca, the audience could not restrain its laughter when Claudius' "foresight and wisdom" was commended (Tacitus *Ann.* 13.3).

Nauta then speculates on what would have been the most suitable occasion for a recitation of the *Apocolocyntosis* and settles on the Saturnalia immediately following Claudius' death. This setting would have allowed enough time for Narcissus to do himself in and arrive to greet Claudius in Hades. Furthermore, Tacitus remarks on Nero's celebration at that first Saturnalia (Tacitus *Ann.* 13.15).

Nauta also strengthens his argument by looking at other literature written for Saturnalia celebrations. In particular, he compares the *Apocolocyntosis* to Julian's *Caesares* which is known to have been written for the Saturnalia at the beginning of his reign. This reign purported to undo the wrongs of previous reigns and to usher in a "new era" (82).

The argument for the satire being written expressly for a Saturnalian celebration not only is supported by two references to the Saturnalia in the *Apocolocyntosis* (8.2; 12.2), but also by the theme of dice which has its own motif in the work. One of the unusual liberties afforded during the Roman Saturnalia was the freedom to play dice for money, which was otherwise illegal (Nauta 87).

This theme then links with the Saturnalian motif. More importantly, the whole reign of Claudius is depicted as a mock-reign, or a Saturnalian kingdom-- something which at most should have lasted only for the duration of the festivities. According to Nauta, all of Claudius' wrongs are implicitly treated as "Saturnalian licences" (88). Claudius' reign had been an "inverted" Augustan reign, and now things were to be re-inverted to the right under a new ruler (Nauta 89). Nauta concludes that the document was written in AD54 for the Saturnalian festivities. I find his arguments concerning the date and the occasion for the *Apocolocyntosis* compelling.²

CHAPTER II

THE MENIPPEAN GENRE

BAKHTIN'S PRESENTATION

Mikhail Bakhtin, a twentieth century Russian scholar, views Menippean Satire as an open-ended genre which developed over the centuries, beginning in antiquity and culminating in Dostoevsky's writings. By examining both ancient, medieval, and modern writings, he arrives at a list of typical attributes which may be used to describe his broad conception of the genre (Riikonen 7, 20, 21, 27).³

1. Large "comic element."
2. Uninhibited by "historical" demands; "fantastic" element.
3. Fantastic elements channel and test theoretical principles.
4. "Crude naturalism" combined with high abstract concepts.
5. The true subject matter is "ultimate questions of life."
6. Often three levels of movement: heaven, hell, and earth.
7. Strange vantage points change perspective on the action.
8. Refiguration of psychological states; "wholeness of a person" destroyed.
9. Absurd, scandalous, and improper conduct.
10. Reversals and oxymora.
11. "Utopian elements."
12. Incorporates and mixes many other genres, including prose, verse, adages; includes foreign phrases.
13. Plurality of style and tone.
14. "Journalistic" aspect: usually concerns the present or recent past (Riikonen 21-27; Mazzoli 196-7).

All these characteristics taken together form a topsy-turvy unity. As a whole Bakhtin classifies this genre as "carnavalesque," or "Saturnalian." Above all, the aspect of reversals is prominent, epitomized in the Saturnalian custom of enthroning an otherwise inappropriate holiday king (Mazzoli 198.9).

This modern description of the genre Seneca chose to use illuminates its

potential and depth. A perusal will confirm that many of these characteristics are shared by the *Apocolocyntosis*, even though the genre was yet in its early stages of development.⁴ I will explore pertinent aspects found in the *Apocolocyntosis* in the concluding section.

FORERUNNERS

The definition of Roman satire has as many different emphases and variations now as it did in antiquity (Duff 1-10, 14, 20). The derivation of the word satire (*satura*), coined, according to Horace, by Ennius (239-169 BC), was disputed even in ancient times (Knoche 15, 16; Coffey 11-18). Modern etymological studies conclude that the word is related to "miscellaneous food" used in a figurative sense (Coffey 16, 23). The "mixture" and "medley" connotations of the word transferred to literary usage (Knoche 16).

One modern definition of Roman Satire combines this idea of variety, the use of dactylic hexameter as the unifying meter, and the "critical element" (Ramage et al. 3).⁵ Another authority notes the common characteristic, beginning with Ennius, as "the completely personal expression of the opinions and feelings of the poet writing it" (Knoche 29). Yet another contributor notes the three crucial characteristics as "attack, entertainment, and preaching," each of which necessarily must be balanced in a proper measure against the others (Rudd 1). The *Apocolocyntosis* can be argued to fit any of these definitions, so quibbling is unnecessary.

There are two ancient authors in particular who have been isolated from others as providing direct precedents for Seneca's *Apocolocyntosis*. Lucilius, (c. 169-102 BC) who was the first to choose satire exclusively as his medium, developed the genre more fully than any predecessor (Quintilian 10.1.93; see also Coffey 35; Knoche 31, 2). Lucilius "defined his poems as *facta saeva* ('savage actions') and as *tristia dicta* ('gloomy words')" (Lucilius frg. 1014; see Knoche 42). But this was not art for art's sake. Rather, it was art for a practical purpose (Knoche 43). Although Lucilius' poems included moral exhortations, they more obviously were meant to undermine the political enemies of his friends. Scipio Aemilius in particular patronized Lucilius and used his pen against enemies (Coffey 36-38, 47; Knoche 50).

There were problems attached to making a personal attack in the Roman

world. According to the testimony of St. Augustine who quoted Cicero, the Twelve Tables required capital punishment for "anyone who chanted hostile words or composed a *carmen* so as to bring ill repute or disgrace on another" (*Civitas Dei* 2.9; Qtd. by Rudd 40). Although the Roman playwrights, Plautus and Terence, circumspectly avoided naming names of adversaries or pointedly poking fun at individuals, by the time of Lucilius there seemed to have arrived a certain license between political opponents to "pay back in kind." Although some complaints against Lucilius were noted (Fr. 1085, 1086), no one went so far as to take legal action against him. Lucilius, neither a senator nor a common reviler in the streets, writing mostly for a private audience, perhaps fell outside the brackets of legal recourse; furthermore, a suit could bring undue attention to his satire and spread more harm to its victim than would naturally have occurred (Rudd 42, 3).

Although Lucilius' Book I, "The Council of the Gods," comes to us only in fragments, a precedent for Seneca's *Apocolocyntosis* can be discerned in what survives (Ramage et al 35; Duff 24).⁶ Ennius, in one of his non-satirical writings, had incorporated a *concilium deorum* (Council of the Gods), mimicking the Roman senate in session, in which the deification of Romulus is discussed (Coffey 42,3). Lucilius uses the same setting to attack one Lentulus Lupus. Lupus' case revolves around the inconsistency that although already condemned for corruption while serving in a lesser office, he later served in the positions of both *princeps senatus* and censor (Coffey 42, 3; Ramage 36). Claudius' reception in heaven is similar to that of Lupus (*Apocolocyntosis* 5.2; frs. 43,44; Eden "Introduction" 17). The aspects of personal attack, the *concilium deorum*, and the incongruity between high office and the previous low behavior of its occupant all find unmistakable parallels in the *Apocolocyntosis*.

Lucilius' Book II, a "mock-trial" for a provincial governor's misrule, also parallels Seneca's work. In the excerpts still extant are digs at the governor's degenerate lifestyle, accusations of murder, and scoffing at his phil-hellenism (Ramage et al 36, 7).

In addition, one line in the *Apocolocyntosis* is almost certainly derivative from a fragment attributed to Lucilius (Eden "Commentary" 114). Seneca, a highly accomplished literary man, was almost certainly aware of Lucilius' satires.

The first Roman to claim the use of the Menippean genre *per se* was Marcus Terentius Varro (116-27 BC). He drew from the ideas and spirit of Menippus

(mid-third century BC), a Phoenician from Palestine who is referred to in antiquity by several authors. Menippus leaves us only a few titles, one sentence of prose, and one of poetry by which to judge him. From the witness of the others, however, it is thought that he poked fun at philosophers, that he combined the comic and the solemn, using the one to promote the other, and that he mixed prose, poetry, and quotations (Coffey 162,3).

Of Varro's prolific writing only about 600 sentences or fragments of sentences have remained to the present. There are 150 titles of his Menippean satires known, however, thanks to a list made by St. Jerome (Coffey 153). Cicero, a correspondent with Varro, provides a bit of discussion about Varro's use of the genre and his purposes. In a dialogue he makes Varro say:

Yet in those works I wrote years ago as adaptations, not translations, of a sort, many items of technical philosophy were included and many were expressed in the manner of a logician. In order that men of no great education might understand them more easily they were induced to read by a certain attractiveness of presentation (Cicero *Academica* 1.8; Qtd. by Coffey, 151,2).

Given Cicero's attempts to refrain from any occasion of misunderstanding between himself and Varro at the time he wrote this, the description is believed to be generally reliable (Coffey 152; Ramage 63). Cicero also tells us that since serious students of philosophy read and wrote in Greek, Varro did not compete in writing any serious philosophical works in Latin. Rather, he chose to gear his writing to a more popular level, intending to teach morals humorously (Cicero *Academica* 1.4-9; see Ramage 55; Knoche 55). The titles themselves sometimes attest this double purpose: "Every Dish Finds its Lid: Concerning the Married"; "The Battle of the Goats: Concerning Pleasure" (Coffey 154, 5). By classifying these as *Saturae Menippeae* Varro may have been emphasizing roots which actually ran back both to Menippus as well as Lucilius; at the same time he was drawing a distinction between the personal political attacks characteristic of Lucilius and his own higher intents (Knoche 53).

The most obvious external characteristic of Varro's satires is the mixture of poetry and prose employed to make his points (Quintilian 10.1.95; see Knoche 53). He utilizes many conventions, however, in ingenious ways to accomplish his purpose: dialogue; dinner party settings; take-offs on "dramatic plots"; plays on "epic narrative" (Coffey 155-157). He makes use of legal language and format, as

well as maxims and sayings (Ramage 57). Sometimes he makes his characters pass from tangible earth to abstract thought, and he uses fantasy, sleep, and dreams to make philosophical points. One of Varro's favorite themes centers on the moral decadence of Rome in comparison to more pristine times (Coffey 158): he believed the "three cardinal virtues" lacking in Rome were *pietas*, *fides*, and *pudicitia* (duty, trustworthiness, modesty) (Knoche 60). Varro's satires are undoubtedly close predecessors of Seneca's *Apocolocyntosis* (Coffey 164). Seneca even mentions him by name in the *Apocolocyntosis* (8.1; see also *Ad Helviam* 8.1)

In short, the *Apocolocyntosis* was not written in a vacuum. The two most direct influences on this work are Lucilius and Varro (Knoche 70; Duff 96).⁷ Seneca uses a tried and true framework and format for his satire, combining both legal trials and a council of the gods already used effectively by Lucilius and others. The parallel to Lucilius' attack on individuals is quite unmistakable, though his subjects were living and Seneca's subject was dead. Seneca's variation in this respect may reflect the necessity of retaining the good will of those in power (Bringmann "Politische" 67,8). However, he followed the good precedent of earlier playwrights in avoiding attacks on the living, and we may find that his purpose went far beyond that of Lucilius. A dead target suited his intent just as well.

Seneca mimics Varro's mixture of prose and poetry, legal language and maxims, and incorporates shifting perspectives from various realms. He makes use of Varro's double intent, criticizing and teaching in an entertaining piece. Seneca brings these strains together into a creative culmination which suited his own ends.

CHAPTER III

SENECA

EARLY LIFE

Lucius Annaeus Seneca, a man of great fame and influence during the reign of Nero, rose to prominence more by his wit and wisdom than by the greatness of his family. In his own words, "Overcoming the limitations of my birth and measuring myself not by my lot but by my soul, I stood equal to the most important men" (*NQ* 4 pref.15). He was born c. 4 BC in Corduba, a *colonia* in the province of Baetica, an area which had been early stabilized and Romanized (Griffin *Seneca* 29).⁸ His family was Italic, classed as *Hispanienses* rather than the native-derived *Hispanus*, because the family had immigrated from Italy within the previous two centuries (Griffin *Seneca* 31).

Seneca's father never held public office, never taught or practiced law, and never entered the senatorial ranks. He belonged to the equestrian class, and within his own provincial area he was a wealthy and influential man (Griffin *Seneca* 33). He demonstrated his literary interests by his writings. One project was a history of Rome covering the period from the civil wars between Pompey and Julius Caesar to near the end of his own life, AD39 or 40. Although this work is not extant, his *Controversiae*, a compilation of the best *dicta* which he personally remembered and recorded for his sons, still remains with us (testimony to his extraordinary memory [*Con.* 1.2,3]) (Griffin *Seneca* 32,3).

Seneca's mother Helvia often stayed home in Baetica and managed the family interests while the men in the family spent time in Rome for various purposes: this fact prompts the conjecture that the family wealth was based on land holdings (*Cons. Helv.* 14.3; Griffin "Elder" 6,7; *Seneca* 32). Helvia bore three sons: Annaeus Novatus, who by a later adoption held the name L. Junius Gallio Annaeanus and is mentioned in the *Acts* (18.12-17); Lucius Annaeus Seneca, our present concern; and M. Annaeus Mela, father of Lucan the poet (Griffin "Elder" 7 fn. 28; 15).⁹

We know that from his youth, before he embarked on his formal political

career, the younger Seneca was drawn to philosophical studies. Early on he followed the teaching of Pythagoras and a certain Sotion, living according to the strict vegetarian diet this philosopher prescribed. His family pressured him to stop these observances, however, when his asceticism could be construed as politically dangerous. Seneca, to avoid possible public repercussions, gave up his diet (*Ep.* 108.22).

The ambivalence noted above can be traced throughout Seneca's life. He loved philosophy and embraced Stoicism, yet he allowed himself a certain flexibility with the doctrines (*De Beata Vita* 3.2; Griffin *Seneca* 4). Most of his writings reflect the ideal of the philosophic life. His own father, however, addressing his even more philosophic son Mela, referred to Seneca as the one who had political ambitions. In this passage Seneca the Elder assures Mela that he is not plotting to manipulate him into a direction other than his chosen philosophy. From this it has been conjectured that the father, who hated philosophy, may have pressured Seneca to pursue a public career (*Con.* 2 Pr. 4; *Ep.* 108.22; see Griffin *Seneca* 33.4). In fact, late in life Seneca confesses his own long-term inclination to the life of politics:

Although people may often have thought that I sought seclusion because I was disgusted with politics and regretted my hapless and thankless position, yet, in the retreat to which apprehension and weariness have driven me, my ambition sometimes develops afresh. For it is not because my ambition was rooted out that it has abated, but because it was wearied or perhaps even put out of temper by the failure of its plans (*Ep.* 56.9).

Seneca's mother Helvia provided his path to a more prominent public career: C. Galerius, Prefect of Egypt under Tiberius, was married to her stepsister. This aunt allowed Seneca to live with her in Rome for the sake of his studies as a child, and during her stay in Egypt she brought him there to recover from a case of tuberculosis (*Ep.* 75.12; Dio 59.19; see Griffin *Seneca* 42). When they returned to Rome in AD31 her influence supported his election to the quaestorship, moving him into senatorial rank as well.

Seneca rarely mentions his activity in public office. It was rather his talent as an orator and author that had quickly gained him fame and connections in Rome. There is some evidence to support conjecture that Seneca maintained an early friendship with Gaius Caligula's three sisters. Any benefit deriving from

this friendship ceased temporarily when all three women were sent into exile for an alleged plot against the emperor (Griffin *Seneca* 51). Seneca himself, criticized by Gaius for his oratorical style (Suetonius *Gaius* 53), began to emphasize his study of science and Stoic philosophy, either in an effort to avoid further attention from Gaius or because his physical condition may have made effective public speaking a difficulty (Griffin *Seneca* 54-6; cf. *Ep.* 49.2). Seneca's ties to Agrippina also may have been strengthened when she married Passienus Crispus, to whose family Seneca had friendship connections through his father (Syme 160; *Seneca Cons.* 1 Pref. 10; 2.5.17; *NQ* 4 Pref. 6; Sorensen 132).

Claudius succeeded Gaius as emperor when the latter was murdered by the praetorian guard (AD41). At this point the two surviving exiled sisters, Julia Livilla and Agrippina, were recalled (Suetonius *Gaius* 56-59; *Claud.* 10; Dio 60.4.1). Although the new emperor was no tyrant by comparison to Gaius, the personal fortunes of neither Agrippina, Julia Livilla, nor Seneca thrived under his early reign. Messalina, Claudius' wife, showed animosity to Agrippina blatantly enough that there was a general sympathy felt for her (Tacitus *Ann.* 11.12). Messalina also linked Julia Livilla and Seneca in an accusation of adultery, a crime with political overtones. Besides these political woes, Seneca lost his only son and probably his wife (AD41) (*Seneca Cons. Helv.* 2.4.5; see Griffin *Seneca* 59).

Dio says that Messalina accused Julia Livilla because she saw in her a potential threat (Dio 60.8.5). That Seneca was accused with Julia may have been incidental, but it also indicates that he had a close relationship with her. Messalina may have considered Seneca a political enemy exactly because he was tied to a court faction surrounding Gaius' sisters (Kamp 102). If this is so, she ably disposed of two threats with one blow. In an autobiographical comment, Seneca states that Messalina and Narcissus "were not able to overturn my resolve in my allegiance to other people also whom it was unlucky to like" (*Seneca NQ* Pref. 4.15-17).

Julia Livilla was executed without a trial (Suetonius *Claud.* 29). Seneca, however, achieved a trial by the senate. The senate condemned him to death; Claudius intervened and had Seneca exiled instead to the island of Corsica (AD41) (*Seneca Cons. Pol.* 13.2). Although it might be expected that Seneca would have been grateful, and indeed he did praise the emperor's clemency (*Cons. Pol.* 13.1-4), Tacitus records that Seneca held a grudge against Claudius for this exile

(*Ann.* 12.8.2; 13.42). Griffin resolves any apparent conflict by suggesting that Seneca felt the whole process inequitable, and that, had Claudius been performing his tasks correctly, the unjust trial would never have taken place to begin with (*Seneca* 216). After all, the accusation had originated in Claudius' own household.

Seneca's innocence or guilt in the matter cannot finally be proven or disproven. The senate declared him guilty and sentenced him to death; Dio refers to him as guilty (61.10.1-3). Perhaps he was. But Dio also confirms that Messalina manipulated affairs leading to the undeserved deaths of others (example: 60.29.6). Inconsistent with Dio's analysis of Seneca as guilty is his other reference to the occasion:

[Messalina] secured her [Julia Livilla's] banishment by trumping up various charges against her, including that of adultery (for which Annaeus Seneca was also exiled), and not long afterward even compassed her death (60.8.5).

If Julia Livilla was banished because of "trumped up" charges, one of which was adultery with Seneca, then Seneca's verdict of guilty is also suspect. He himself felt or at least maintained that he was unjustly exiled (*Cons. Pol.* 13.3). Furthermore, there seems to have been a general sympathy for Seneca--according to Tacitus, one of Agrippina's motives for later recalling Seneca was his continuing popularity in Rome (*Ann.* 12.8). Could he have retained this popularity if the majority of these very men had willingly and convincingly condemned him? (Griffin *Seneca* 60,61). That Claudius easily secured Seneca's return to court when Agrippina desired it, now obtaining the senate's approval for that action, argues more strongly for a manipulated or fearful senate than for the senate's independent conviction that Seneca was guilty (Tacitus *Ann.* 12.8; Suetonius *Claud.* 12). Seneca's true transgression was being connected with the incorrect party at the court, as he himself intimates (*NQ* 4 Pref. 15-17; Ferrill 254).

SENECA IN EXILE

It is important to explore Seneca's exile in more detail, for if he felt a personal bitterness against Claudius, this may provide one motive for the harsh and crude side of the satire in question. Our chief sources for this information, besides Seneca's *Epigrammata de exilio*, are two moral essays, *Ad Helviam* and *Ad*

Polybium (Sullivan 197; Griffin *Seneca* 396).

The treatise *Ad Helviam* was addressed to his mother, ostensibly to comfort her in the face of Seneca's own exile. It was probably composed in mid-42, a year and a half after he arrived in Corsica (*Cons. Helv.* 1.1, 2; 2.5; cf. Ferrill 254). Seneca recounts therein the many familial tragedies which his mother has already survived, including the fact that her young grandson (his own son) had died just twenty days before he had been exiled. He states that his exile was the most grievous of her griefs (*Cons. Helv.* 3.1),¹⁰ but takes the philosophical stance that exile is merely a change of place (*Cons. Helv.* 6.1 *passim*). A truly philosophical man will not find unhappiness in a mere change of fortune, and he exhorts his mother to a "stoic" acceptance of his fate and hers.

Although some have taken this letter at face value, considering it simply a philosophically-motivated comfort to Seneca's mother, Ferrill argues that the letter--if not insincere--was politically motivated. He points out the inconsistency between the stated "[exile] is a change of place" (*Cons. Helv.* 6.1) and the fact that otherwise Seneca refers to his exile only in negative terms. For instance, Seneca's epigrams refer to the island as *Corsica terribilis*, and to himself as the living among the dead (Ferrill 254).

Within the letter itself are comments suggesting real unhappiness with exile. For instance, Seneca says he could not write to his mother immediately because he had to conquer his own grief first (*Cons. Helv.* 1.1). While he elaborates at great length on the possibility of finding happiness anywhere in the world, he yet describes Corsica as a "barren . . . rock," its resources "starved," its people "uncivilized," its land "rugged," its climate "intemperate" (*Cons. Helv.* 6.5). While encouraging his mother to compose herself and suppress her sorrow, he admits that "yet tears pour down our faces even when we have framed the countenance to deceive" (*Cons. Helv.* 17.1).

Ferrill points out the unlikelihood that Seneca would have waited that long to communicate with his mother; even if he had, the treatise need not have been so highly polished. Obviously his letter was written with a purpose to publication. The true intended audience for this treatise was "the upper levels of Roman society including those near the emperor and empress" (255). The underlying goal behind the work was that Seneca be recalled from exile; he used the purported intent of consoling his mother to portray himself as a philosopher with no

intentions of political involvement (255). The plea for a return to Rome and life as usual is subtle, if unmistakable.

Ferrill emphasizes the negatives which Seneca raises about his exile, and he devalues the proper Stoic responses to each of them. His point is surely correct, as far as it goes. But he ignores the possibility that Seneca's philosophy might have afforded some real help and consolation. Clearly, Seneca would have preferred to return to Rome, and he was not above dropping a hint, as Ferrill documents so convincingly. True, Seneca's ambivalence is apparent. He was capable of publicly presenting the face demanded by this situation, while fighting a less presentable unhappiness.

But just as clearly he did embrace Stoic doctrine, and he stoically performed the necessary mental gymnastics to cope with his misfortune. He laments in this letter that his mother, only because she was a woman, had been discouraged from learning Stoic philosophy in any depth. If she had learned it, this tool would have stood her in good stead during this trying time (*Cons. Helv.* 17.3,4). To write a subtle letter with the hope of release from exile in view, regardless of the wise professions of acceptance of his lot, is hardly a devious ploy nor does it undermine his Stoic sincerity. Not claiming to have arrived at the state of the "wise man," Seneca does claim that

... fleeing to that which is able to lighten all sorrows, I have surrendered myself to wise men and, not yet being strong enough to give aid to myself, I have taken refuge in the camp of others--of those, clearly, who can easily defend themselves and their followers (*Cons. Helv.* 5.2).

To discredit his attempts to cope with his lot in a proper Stoic manner, as he claims to be doing, is to be overly cynical.

The other published letter written from exile was that addressed to Polybius, one of Claudius' powerful freedmen, dated just before Claudius' British triumph (AD44). A tone of despair pervades this essay, and many have criticized its blatant flattery both of Polybius and of Claudius, as well as its un-stoic plea that Polybius use his influence with Claudius to release Seneca from exile.

Early in the letter he refers to his own unhappiness as he offers consolation to Polybius who has lost his brother: "I do not refuse to shed whatever tears my own fortune has left me in regret for yours; for I shall even yet find some that may flow from these eyes of mine, that have already been drained by my personal

woes. . . ." (*Cons. Pol.* 2.1). He ends the treatise with a lament for his own misfortune:

I have put these things together, as best I could, with a mind now weakened and dulled by long rusting. If they shall seem to you to be ill suited to your intelligence, or to ill supply the healing of your sorrow, reflect how he who is held fast in the grip of his own misfortunes is not at leisure to comfort others, and how Latin words do not suggest themselves readily to one in whose ears the uncouth jargon of barbarians is ever ringing, distressing even to the more civilized barbarians (*Cons. Pol.* 18.8,9).

Besides the stock stoic arguments for manly acquittal in sorrow,¹¹ sandwiched between these two laments is flattery and praise for Claudius. The emperor is praised as "the kindest of princes" who is restoring the empire by his mercy after the excesses of Gaius (*Cons. Pol.* 17.3). Claudius himself is suggested as the solution to Polybius' sorrow: his favor should compensate for any grief (*Cons. Pol.* 7.1). Again, Polybius could write a book about the most excellent Claudius--this should help alleviate sadness (*Cons. Pol.* 8.3). Or serving Claudius should help Polybius to overcome his sorrow: for instance, Polybius could help others obtain mercy from the clement prince, and in so doing forget his own grief (surely another hint for Polybius' intervention on Seneca's own behalf) (*Cons. Pol.* 6.5). Praise for Claudius is extended to a comparison with the dazzling sun and coupled with the expressed hope that Seneca, by the mercy of the emperor, would be able to watch the celebration of his victory in Britain.¹²

Howsoever [Caesar] shall wish, such let him account my case. Let either his justice discern that it is good, or his mercy make it good; whether he shall discern that I am innocent, or shall wish me to be so--either, in my eyes, will equally show his kindness (*Cons. Pol.* 13.3).

Neither the subtle nor the blatant plea for a return to public life was effective, however, for Seneca remained in exile until AD49. Dio records that Seneca later attempted to suppress a letter written to Polybius filled with flattery for both him and Messalina (61.10.2). Although *Ad Polybium* does not contain any praise for Messalina, it is also true that we do not have the complete text. There seems to be no reason to discount the correlation between Dio's comment and the text we have (Griffin *Seneca* 415).

Soon after returning from exile Seneca published the treatise *De Ira*, which presumably he had mostly written on the island (Griffin *Seneca* 62; Sullivan 126).

He includes near the end of it a comment about the sentence of exile, attributing to the angry man this sentiment:

'I do not wish,' [the angry man will] say, 'to kill him at all, but to punish him with exile, with public disgrace, with material loss.' But I [Seneca] am more indulgent to the man who would give his enemy a wound than to the one who would give him a blister; for the latter has not only an evil mind, but a petty mind as well (*De Ira* 3.43.4).

I construe this comment as personal--it was written too soon after his own exile to be taken as general truth, although it was inserted at the end of the discourse as a small side point (see Sullivan 127; Momigliano 245). Seneca hated his exile, actively attempted to be recalled to life in Rome, and ultimately blamed Claudius for his troubles.

But the fact remains that Seneca eight years later was recalled from exile by none other than Claudius. This time Agrippina, Claudius' new wife, influenced the decision. The ease with which Seneca was recalled when Claudius willed it demonstrates the accuracy of Seneca's opinion that Claudius bore the ultimate responsibility for his grievances. Although Claudius never recalled any exiles without the approval of the senate (Suetonius *Claud.* 12), it also seems obvious that the senate was responding to the emperor's wishes.

SENECA IN THE COURT

If Seneca's fortunes were tied to Gaius' sisters, now he was in luck. Of the three, only Agrippina had survived the years, but her fortune was nearing its height. One of the first favors she asked from her powerful husband was that Seneca be recalled as a tutor for her son Nero (Tacitus *Ann.* 12.8). Agrippina's goal was to prepare Nero for the emperorship both by excellent tutoring and by building a powerful faction of support for herself and for him. Seneca was perfect on both accounts. Besides his "literary eminence" and a resulting broad-based popularity, his loyalty to her qualified him for the task (Tacitus *Ann.* 12.8; Dio 60.32.3; cf. Sorensen 132).¹³

When Seneca first returned to Rome, he received, along with his assignment as tutor, the office of praetor, the next step on the *cursus honorum* (Tacitus *Ann.* 12.8). Although Seneca's formal political role seems to have been minimal at this

point, his Roman respectability was enhanced by the offices which he held. The fulfilment of the *cursus honorum* demonstrates his commitment to the Roman system as it stood; even more, he fully embraced the ties of obligation which bound him to Agrippina and to her goals for her son Nero.

Suetonius mentions that Agrippina demanded that Seneca teach very little philosophy, a subject considered antithetical to political life (*Nero* 52). Seneca taught Nero the humanities, eloquence, and extemporaneous speaking, and he polished Nero's Greek and Latin. In addition he gave political and moral advice (Suetonius *Nero* 52; Tacitus *Ann.* 12.8; 13.2; 12.58.1; cf. Griffin *Seneca* 63.4). Because Agrippina's support and protection strengthened Seneca's position, he boldly published two treatises during this period, the above mentioned *De Ira*, and *De Brevitate Vita*, both which contained veiled criticism of Claudius (Momigliano "Seneca" 244-7; Sullivan 127).¹⁴

When Claudius died (AD54), purportedly by the poisonous hand of Agrippina (Tacitus *Ann.* 12.66.7; Suetonius *Claud.* 44), Seneca's status in relationship to Nero was both raised from tutor to *amicus principis*, and lowered from teacher to subject (Tacitus *Ann.* 13.2-5). There was inherent tension in this simultaneous upward and downward movement; the circumstances under which it took place put Seneca in a semi-compromising position for a man who upheld a philosophic ideal.

Although Seneca continued on in the formal *cursus honorum*, holding the post of suffect consul in 56 (cf. Griffin *Seneca* 73 fn. 6), this was incidental to his less formal but more powerful functions in the court of Nero (Griffin *Seneca* 67; 76-81).¹⁵ Seneca's position as *amicus principis* was strengthened by his harmonious association with another appointee of Agrippina, commander of the elite praetorian guard, Sextus Afranius Burrus (Tacitus *Ann.* 12.42; 13.20). In the early years of Nero's rule Seneca and Burrus successfully advised the young prince, influencing him toward a course of moderation (Tacitus *Ann.* 13.2, 14.14; see Griffin *Seneca* 137).

One of Seneca's duties as *amicus principis* was to come up with an "ideology of the new regime" (Griffin *Seneca* 133; Momigliano "Seneca" 241). *De Clementia* (see below 39 *passim*) helped to provide an explicit *apologia* (Momigliano "Seneca" 250; Griffin *Seneca* 133). Along with producing this high-minded philosophical presentation, Seneca also functioned as "press secretary," coming up

with public explanations for private imperial events (Tacitus *Ann.* 14.11; Griffin *Seneca* 77). Suffice it to note that Seneca wrote speeches for Nero, including the funeral oration over Claudius and Nero's accession speech to the senate (Tacitus 13.3; Dio 61.3.2), and later he even provided the clumsy explanation for the murder of Agrippina (Tacitus *Ann.* 14.11; see Griffin *Seneca* 79). His role, in short, was to provide "personal influence on the Emperor's public behavior and pronouncements," (Griffin *Seneca* 128), as well as "managing and glossing over court intrigue" (Griffin *Seneca* 77).¹⁶

Seneca's involvement in politics actually had good Stoic tradition behind it. Seneca quotes Zeno's famous encouragement to an active life: "The wise man will engage in public affairs, unless something prevents him" (*De Otio* 3.2; also see *Ep.* 8.1; *De Clem.* 3.2; 4.3; *De Tranq. An.* 3.1-3). A Stoic had a duty to try to stay the forces of evil: Cato provided a paradigm for this role (*De Const.* 2.2). Seneca may have considered that his moderating role which bore fruits for good could not be antithetical to philosophy.

But the tensions inherent in his tricky position did assert themselves. Seneca's loyalty to Agrippina and her goals, and his subjection to Nero, particularly as the emperor began to cultivate a character more and more at odds with philosophic ideals, made Seneca vulnerable to accusations of hypocrisy (see Griffin *Seneca* 140).

And the inconsistencies between Seneca's expressed ideals and his political involvement were criticized. Tacitus presents Seneca in a fairly favorable light by placing the criticisms in the mouths of questionable characters, Suillius and later Nero's new advisors (Tacitus *Ann.* 13.42.3; 14.52). But Dio believes in Seneca's affair with Julia, accuses him as well of having one with Agrippina, and then points out many more inconsistencies:

Nor was this the only instance in which his conduct was seen to be diametrically opposed to the teachings of his philosophy. For while denouncing tyranny, he was making himself the teacher of a tyrant; while inveighing against the associates of the powerful, he did not hold aloof from the palace himself; and though he had nothing good to say of flatterers, he himself had constantly fawned upon Messalina and the freedmen of Claudius. . . . Though finding fault with the rich, he himself acquired a fortune of 300,000,000 sesterces. . . . (Dio 61.10.1-3).

The accusations leveled at Seneca were potent enough that he did feel obliged to justify himself, a project he undertook when he wrote both *De Vita Beata*

and *De Tranquillitate animi* (Momigliano "Seneca" 243, 251,2). Indeed, Seneca found a response for all the accusations.

His most basic defense was one he used throughout his life: he had not yet arrived at perfection. But let him speak for himself.

Later I shall outdo your reproaches and bestow on myself more blame than you think of; for the moment I shall make this reply: "I am not a 'wise man,' nor--to feed your malevolence!--shall I ever be. And so require not from me that I should be equal to the best, but that I should be better than the wicked. It is enough for me if every day I reduce the number of my vices, and blame my mistakes (*De Vita Beata* 17.3,4; see also 11.1; 17.1,2; 18.1,2; 20.2; 24.4)

Besides this general comprehensive answer, there were rationales for the specific things he was accused of which did not necessarily negate his Stoic beliefs. Take flattery, for instance. Dio, in the same passage quoted just above, notes that Seneca tried later to suppress his sycophantic letter to Polybius. Any number of motives could be speculated, the most obvious being the one that Dio assigned to him, that he was ashamed. If this is the case, he was trying to back-track in an action which he later perceived as wrong. This fits with Seneca's claim that he had not yet become the Stoic "wise man."

Seneca the Elder in his *Suasoriae* had included a discussion on the best way to give advice to rulers. He brings up the case of Alexander the Great. The speaker Cestius, of whom Seneca the Elder approves, holds that "nothing should be said that did not show the highest respect towards the king, in case the speaker should meet with the same fate as Alexander's tutor, a cousin of Aristotle, whom the king killed because of a witticism that was both outspoken and untimely" (*Suasoriae* 1.5). Cestius further advocates that "one's opinion must be given in such a way that his feelings were soothed by lavish flattery, though some moderation must be preserved so as to give an impression not of flattery but of due respect. . ." (1.6).

This argument for self-preservation was not necessarily anti-Stoic. In Stoic thought, one did not flippantly commit suicide or do foolish things which would lead to death (Seneca *Ep.* 22.7). When dealing with extreme power, then, flattery might have its place. Furthermore, this could tie in to the Stoic belief that the active life was for the good of the state. If one was in a position of influence, it was his duty to hold back the evil that he could.

The other example we have of flattery by Seneca is imbedded in a *De*

Clementia's didactic message (*De Clementia* 1.1.5-9; 2.1-4; Griffin *Seneca* 130).¹⁷

Seneca explains his motives clearly:

Permit me to linger longer on this point, but not merely to please your ears; for that is not my way--I would rather offend with the truth than please by flattery. What then is my reason? Besides wishing you to be as familiar as possible with your own good deeds and words in order that what is now a natural impulse may become a principle, I reflect upon this. . . (2.2.2).

In this case Seneca used flattery as a psychological strategy to encourage the positive side of the emperor (Griffin *Seneca* 137.8). Furthermore, the flattery may have also been propagandistically descriptive, since the *De Clementia* presented a public ideology for Nero's reign (see above 22). When Seneca later in life was falling out of favor with Nero, he claimed: ". . . nor am I a flatterer. Nero knows this exceptionally well. He has had more frankness than servility from Seneca!" (Tacitus *Ann.* 15.60). There were examples of it, but flattery was not characteristic of Seneca.

The accusations surrounding Seneca's wealth seem to be founded on those of Suillius leveled at Seneca when Suillius was on trial (Tacitus *Ann.* 13.42,3; see Motto 256). But Seneca himself never holds that the mere state of wealth is incongruous with the philosophical life. Rather the opposite, wealth can enhance the power of the good man to do good. At the very least wealth should be classed as a "thing indifferent" (*De Vita Beata* 22-24; Motto 258).

According to Momigliano, Seneca's apologia failed, for the best he could do was claim that "a man can save his soul even if he is a politician" ("Seneca" 252). I prefer Tacitus' assessment: Seneca was a man of "amiable high principles" (*Ann.* 13.2), one who did not yet claim to have arrived.

Whether motivated by high philosophy or by self-interest, Seneca's commitment to Agrippina was complete until Nero began to break with her. As their relationship degenerated, Seneca was forced to choose between what had once been a united interest (Tacitus *Ann.* 13.2,13; 14.7; Dio 61.12). Even so, both Burrus and Seneca showed reluctance to turn against Agrippina. When Nero first talked of murdering his mother upon hearing accusations against her, Burrus talked him out of it (Tacitus *Ann.* 13.20). After Nero's later failed attempt to murder her, he suddenly called Burrus and Seneca to help him come up with a plan of action. Their reactions show the fine line they were walking. Both hesitated to

make any suggestion; then, Burrus and Seneca, who understood each other very well (Tacitus *Ann.* 13.2), turned to each other. Seneca asked Burrus if the praetorian guard should kill Agrippina, knowing full well that the guard's fierce loyalty to Germanicus, having been transferred to Agrippina, would make this an impossibility. Burrus, of course, answered that it would not work (Tacitus *Ann.* 14.7). As Nero's chief councillors, however, they were ultimately both connected with the evil of Nero murdering his mother. Burrus finally suggested another possible agent to carry out the job; Seneca provided the public explanation for the deed (Tacitus *Ann.* 14.7,11).

Burrus died (AD62) soon after Nero had killed his mother, and Seneca's influence markedly decreased (Tacitus *Ann.* 14. 49-56). If Seneca had unphilosophically enjoyed his honor, power, and riches when he benefitted from royal favor, it is also true that he easily relinquished it as his power waned. After Burrus' death, Seneca asked Nero for relief from his duties. Although Nero formally refused, Seneca nevertheless managed to retire from Rome, claiming ill health and a desire to pursue philosophical studies (Tacitus *Ann.* 14.56; 15.45). He reverted to a simple lifestyle--a diet of fruit and water--to ensure his survival, or in reversion to his youthful desire for a stoically ascetic lifestyle, or perhaps both.

Seneca's retirement actually accorded with his stated Stoic beliefs. He held that if fortune removed the chance to influence for the good of the state, one should gradually remove himself from duties rather than rushing off, and that one should still seek to do good for the state (*De Tranq. An.* 4.1.2). A person should perform his duties faithfully, but if the state had become too corrupt, to relinquish these duties easily (*De Tranq. An.* 11.2; *De Otio* 3.3; 8.1.2).

Though Tacitus states that Nero had no proof of Seneca's complicity, soon afterwards Nero implicated him in the Pisonian conspiracy (65 A.D.) (Tacitus *Ann.* 15.60-65). Seneca expressed no surprise: "Surely nobody was unaware that Nero was cruel! After murdering his mother and brother, it only remained for him to kill his teacher and tutor" (Tacitus *Ann.* 15.62). Seneca had played the dangerous and challenging game of tempering his difficult pupil as long as he could. It is ironic that Seneca had been the one to come up with rationalizations for Agrippina's murder to be offered to the public (Tacitus *Ann.* 14.11). He knew that he was just as vulnerable.

Momigliano asserts that Seneca's attempt to reconcile philosophy with the

active political life truly failed ("Seneca" 252, 5), but he also points out that "the heroic pose may commit a man to authentic heroism" ("Seneca" 243). During Seneca's prolonged suicide, he actually dictated (or revised) a dissertation (Tacitus *Ann.* 15.63; Dio 62.25). No doubt it was a philosophical one. If Seneca's life did not completely measure up, his death at least was consistent with his Stoicism.

I agree with Griffin who presents Seneca as a highly complex man. He sincerely held Stoic ideals, yet did compromise them to some degree in order to function within the court of Nero (Griffin *Seneca* 135). The discrepancies between stated Stoic goals and certain actions which seem at odds with them suggest, further, that Seneca was perfectly capable of writing the *Apocolocyntosis* if he felt that the ends merited his effort; his reputation for literary talent and the tragedies he wrote prove his capacity to break out of the philosophic genre. The bitterness which Seneca felt toward Claudius gave him ample motive to take advantage of the opportunity to ridicule the departed Caesar, particularly if it would suit the fancies of his former pupil and meet a larger purpose.

CHAPTER IV

THE LAW, THE EMPEROR, AND THE SENATE

THE EMPEROR'S RELATIONSHIP TO THE LAW

During the transitional period of the Julio-Claudians, many ambiguities surrounding the role of the emperor needed to be worked out. The process began, of course, with Augustus, who carefully attempted to legitimize his actions and maintain the fiction, if such it was, that the government had been handed back to the Roman Senate and People (*Res Gestae* 34). Theoretically, once Augustus took this action, the emperor was not above the law. What he had accomplished by "universal consent" beforehand had only been a temporary expedient for drastic times (*Res Gestae* 34).

Clearly, however, drastic changes had taken place. Now the emperor carried two basic authorities in one person which had up to this time remained separate, *maius imperium*, which gave him overriding military control, and *tribunicia potestas* which gave him civil power. Furthermore, these powers developed into grants for life for the succeeding emperors.

The role of the emperor and his relationship to the law remains elusive, particularly before the time of Vespasian. Nowhere is it spelled out exactly. An indication of what was expected may be gained by looking at actions of individual emperors and noting the reception that they received. Still, it is clear that the emperors sometimes broke with expectations, yet retained their authority, which was ultimately reinforced by military resources.

The document that first explicitly describes the emperor's powers comes from Vespasian's reign and is dated to AD69, 14 years after Claudius' death (Brunt 104). Although it is not complete, it corresponds to Tacitus' mention of a decree by which the senate conferred *imperium*, *tribunicia potestas*, and all other powers of former emperors on Vespasian (Tacitus *Hist.* 4.3; Brunt 105). Most important to our discussion of the emperor's relationship to the laws are sections VI and VII:

VI. And he shall have the right and power, just as the deified Augustus and . . . Tiberius and . . . Claudius . . . had to transact and do whatever things divine, human, public and private he deems to serve the advantage and the overriding interest of the state;

VII. And the Emperor Caesar Vespasian shall not be bound by those laws and plebiscites which were declared not binding upon the deified Augustus or Tiberius Julius Caesar Augustus . . . or Tiberius . . . or Claudius . . . , and the Emperor Caesar Vespasian Augustus shall have the right to do whatsoever it was proper for the deified Augustus or . . . Tiberius . . . or Claudius . . . to do by virtue of any law or enactment (*CIL*, Vol. VI, No. 930; Qtd. by Lewis and Reinhold 90).

Brunt argues quite convincingly that this grant of power to the emperor can be projected back to the reign of Gaius (Suetonius *Gaius* 14). He emphasizes that Tacitus, who is often scandalized by excesses of emperors, perceives the grant to Vespasian as perfectly normal. He uses Seneca's description of the emperor's role in *De Clementia* to further his point (see below 42 *passim*). If the inscription may be projected back to Gaius, the blanket clause of VI would appear to apply to Claudius as well.¹⁸

Others argue, however, that the emphasis of Section VI should not be on the emperor's discretion, but upon the similarity of his legal rights to those of Augustus, Tiberius, and Claudius (Brunt 114). The enumerated laws from which the emperor is released, as in Section VII, show that he does not have *carte blanche* to do whatever he wants. This has been argued as well from certain passages in the *Digest*. When Ulpian says that *princeps legibus solutus est* ("The princeps is released from the laws"), the statement in context merely refers to a particular law in question, that of the *Lex Papia* (Shulz 158; Hammond 114; *Dig.* 1.3.31). Other references as well show that the emperor was not generally above the law: "It has often been established that the emperor does not lay claim to an inheritance from an unfinished will. Granted, indeed, that the law of *imperium* sets the emperor free from usual laws; however nothing is so characteristic of the *imperium*, as the fact that he lives by the laws" (*Cod. Inst.* 6.23.3). The power of *imperium* released the emperor from *certain* laws, not from all of them (Jolowicz 336.69; 374.5). This passage is interpreted therefore as referring to the particular laws from which *imperium* would have set him free (Shulz 157).

One balanced explanation offers that the emperor had the authority to overturn specific laws with his authority, but this was its greatest extent. His relationship with the state was that of a constitutional monarchy (Hammond 115,

116).

Whether or not the emperor at the time of Claudius had the technical, legal authority to override any and all law, then, is debated. Regardless, it is clear that the ideal emperor observed the laws (*Cod. Just.* 6.23.3). Those emperors who lived as if they were not constrained to obey the laws were hated, and those who obeyed the laws were loved. Perhaps the most famous text which speaks to this issue is Pliny's *Panegyric* to Trajan, the only *princeps* who received the prestigious title "*optimus princeps*" This contains the statement: "You have spontaneously subjected yourself to the laws, to the laws which, Caesar, no one ever drafted to be binding upon the *princeps* . . . What I now hear for the first time, now learn for the first time, is not, 'The *princeps* is above the laws, but, the laws are above the *princeps* and the same restrictions apply to Caesar when consul as to others.' He swears fidelity to the laws in the presence of attentive gods. . . ." (Pliny *Pan.* 65, qtd. by Lewis and Reinhold 98,9). Although this was written during the early second century, the law-abiding emperor seems to have been the undisputed ideal throughout the principate.

Furthermore, even if the exemption contained in Section VI was discretionary and was in place during the time of Claudius, its emphasis is not on self-interested or arbitrary behavior. The emperor is to subordinate his actions to the "overriding interest" and the "advantage" of the state. It was only for the good of the state and for the benefit of the accused that an ideal emperor would intervene into the course of the law.

Most "acquittals" recorded were a result of the emperor's interference in the course of the law (see Garnsey *Social Status* 36, 39). The paradigmatic emperor Augustus, even before he had this authoritative name, was given the right to interfere in all courts to offer pardon by a "'vote of Minerva'" (*Dig.* 1.16.11; Jones 95). Our sources provide several examples of Augustus exercising his mercy, always relating the instances in a complimentary vein (Suetonius *Aug.* 33, 51). To the point of our discussion, on one occasion Augustus asked leading questions in such a way that a man would not incur the horrid death penalty for killing his father (Suetonius *Aug.* 33). In another, Augustus inadvertantly betrayed by gestures to Maecenas, his trusted advisor, that he was about to assign the death penalty in anger to certain accused individuals. Maecenas threw a tablet into Augustus' lap with the words on it, "Now rise at last, executioner," at which point

Augustus immediately moderated himself (Dio 55.7.2). Dio formulates a speech for Livia in which she argues for the importance of an emperor being perceived by the people as a just and merciful ruler. Especially when it comes to death sentences, the emperor should be inclined toward mercy (Dio 55.19, 20). A later example to the point is Claudius' interference on Seneca's behalf, assigning him to exile instead of to the execution which the senate had decreed for him. Where the emperor was expected to break into traditional law, above all it was to dispense mercy.

On the other hand, as long as the emperor had the support of his troops, he did have the means to enforce his will to a great degree, regardless of particular law or expectations of mercy. When Claudius was proposed as emperor, for instance, the outcome finally depended on the praetorian guard. There was little the senate could do about it (Josephus *AJ* 19.4.4). If an emperor could force his way into power, when it came right down to it, who could stop him from overriding a law? And in overriding a law, who could ensure that he would only do it for the cause of showing mercy? Even so, there were some things an emperor could not change.

By definition the emperor was the first citizen of the Roman Senate and People. When he stepped into the role of princeps, the emperor was in fact acknowledging and participating in the Roman cultural system as it stood. Even if certain discretionary powers were available to him, he could not go so far as to reinvent the Roman cultural system or easily change entrenched customs or habits.

In order to function as a Roman emperor, the emperor had to let Romans be Romans, with all that implies. On a mundane and specific level of culture which applied even to the emperor, for instance, the time of day for conducting business was determined by cultural expectations. It was assumed that the *princeps* would flow with the schedule. Conventional social calls were made early, and business was conducted in the mornings as well (Millar 271; Talbert 190). No new motion could be made in the senate after the tenth hour, and a noon-time rest was usually observed (*De Tranq. Anim.* 17.7; Talbert 192,3). These strongly entrenched customs had made their way into law, for the senate worked under the restriction, noted by Varro, that before dawn no decrees it made would be considered valid (see Talbert 190).

And Roman law, even though adjustments were in process, had been long established as an integral part of the Roman system of values. There was a desire to maintain an old identity, one which was still conceived of as valid and was reflected in customs and the law; at the same time there were new exigencies. The principate itself was an adjustment, an attempt to maintain continuity with Roman tradition, and yet solve problems the old system was inadequate to solve. The ambiguities surrounding the *princeps* and his relationship to the law suggest an ambivalence, a desire to claim the best of both worlds, the old and the new. But the liberties afforded the emperor were certainly granted as remedies for the state, not as a tool for destruction of Romanism. And the law was Roman.

The evolving roles both of the emperor and the senate as alternative recourse for obtaining justice are two aspects of the larger adjustments taking place. In the words of Jolowicz, "It will be seen that the criminal system as a whole was one in which the highest authorities in the state, the emperor and the senate, took it upon themselves to supplement the deficiencies of law and procedure, not by the enactment of new law, but by direct intervention in the interests of order" (Jolowicz 413).

THE EMPEROR AS JUDGE

The emperor, according to common perceptions throughout the empire, was the "source of law and justice" (Millar 240). At the transition from Republic to Empire, the Roman judicial system was not functioning well. The laws were too rigid; corruption and slowness of process were notorious. When the emperor took his place as head of state, the empire waited for him to right wrongs. Administering justice, in fact, eventually became considered the emperor's most characteristic activity (Millar 209,10). In Garnsey's words, the emperor's involvement in lawmaking and judging was "less a conscious creation of Emperors than a response to popular needs and discontents" (*Social Status* 65).

Perhaps the most dramatic and famous example illustrating the popular perceptions of the emperor's judicial functions is the Apostle Paul's appeal to Caesar. It demonstrates the common belief that the emperor would deign to hear even relatively insignificant cases, and that his authority was final (Acts 25:11,12; Millar 511). Although the number of cases and the vastness of the empire limited

the amount of personal involvement he could actually lend, and not every one had the same prospects of admittance to the emperor, the extent of his accessibility was surprising (Garnsey Social Status 65, 85). Many of the cases which came to him were not of great moment, and the accounts which do remain confirm the supposition that administering justice simply came with the territory (Millar 228,9).

After Augustus' modifications to the system, there were three new kinds of courts which could try criminals: the emperor's, the senate's, under the leadership of the consuls, and the city prefect's, which most likely received authority from the emperor himself (Jones 93). To get to the emperor, either the prosecuting party had to request a trial before him, or in the case of appeals, the accused party. The emperor could decide whether to conduct a trial himself, stop the whole process, send it to the senate, or send it to another court. Any trial he chose to hear could have been heard elsewhere (Talbert 168; Millar 523). The example from Acts illustrates that the emperor could be approached in many ways and by many sorts of people. In this case no sentence had actually been given and therefore Paul's appeal was technically out of order; still it moved on to Rome (Millar 511; Garnsey Social Status 75,6).

Unfortunately, it is not possible to show how many cases came to the emperor, the class of people he judged in general, or the details of most of these trials (Millar 525, 535). Most references to his activity in court are simply suggestive stories lacking detail (Jones 92). It does seem that "social or family crimes in upper-class Roman society readily attracted the emperor's notice" (Millar 524), and there are quite a few cases where senators were tried by the emperor (Millar 522, fn. 35). There are also many cases spoken of where the emperor judged for embassies from various parts of the empire, although as with the personal trials, he could have chosen to send them to the senate instead (see Garnsey Social Status 85).

The most detailed example of an emperor in court session is provided by Josephus, where he narrates Augustus' hearing and decision concerning the rulership of Judea at Herod's death in 4 BC (Josephus *B*/2.6.1-2). Although this was not a criminal case, which would be more appropriate for this discussion, many components of the typical procedure in the emperor's court are evident there. The trial was held in the temple of Palatine Apollo, with a crowd of interested persons

in the court. A *concilium*, made up of "the Roman magistrates and his friends" attended Augustus. There were two speeches: the plaintiff declaimed against Herod and his family, and the defendant defended Herod's family's interests. After hearing both sides Augustus retired, and several days later he announced the verdict: the kingdom was to be divided.

Millar uses this trial as a paradigm for procedure usually followed in cases which came before the emperor. It was public and procedural. Opposing sides each presented their case by an orator and presentations were addressed personally to the emperor. "Verbal exchanges" took place between the emperor and those accusing or being defended. A *consilium* was there for advice. The emperor's decision rendered at the end, although he consulted with his *consilium*, was in fact his own (Millar 229,30; 236; also see Jones 113).

Garnsey terms the process of *cognitio* ("inquiry") "most characteristic of the Empire." This process put much control into the hand of the presiding judge, and was the type of trial an emperor generally presided over. Great stress was placed on personal interrogation of witnesses in order to find the facts of the case (Garnsey 6; Millar 236). Although the process generally entailed ruling according to existing law, the emperor, as the highest authority in the land, sometimes interpreted quite freely and is known to have "introduced definitely new principles" (Jolowicz 368; also 398 fn. 3). The emperor had great flexibility in prescribing the sentence, if Ulpian's words concerning a case of appeals can be projected back to the early principate: "he may issue the sentence which pleases him, be it relatively severe or relatively mild, so long as he stays within the limits defined by reason" (*Dig.* 48.19.13, Trans. and qtd. by Garnsey *Social Status* 6).

This practice allowed more flexibility into the courts, for strict procedure could be varied according to the judgment of the emperor. But there were basic presuppositions behind this less formal process: both sides would be heard and a (hopefully) just decision would be rendered by the judge (Millar 236). Although there were undoubtedly occasional mishaps in the Roman justice process, as there are in all justice systems, the ideal was to try a defendant with "an indictment based on charges which were defined by law" (Rogers 282,3). This would be true for all courts, including the emperor's, the senate's, and the others.

THE EMPEROR AS LAWMAKER

The emperor's role as judge, although he had the flexibility to interpret laws freely, was exercised to uphold the laws which had already been established (Jolowicz 406). Still, his decisions were "authentic interpretations of the law," or on the level of the original law itself and not open to further appeal or discussion (Jolowicz 378). The emperor's role as judge therefore blended into his other functions as lawgiver (Jolowicz 337, 352, 406).

Although it is uncertain exactly when this formally came about, the emperor eventually did have explicit power to make law. Ulpian's famous quote from the *Digest*, *quod principi placuit legis habet vigorem* is to be interpreted that the emperor has the power to make law (*Dig.* 1.4.1; Shulz 154). Ulpian provides a succinct list of the various methods by which an emperor could make law: "Therefore whatever the emperor has laid down by *epistula* and *subscriptio*, or has determined in giving justice (*cognoscens decrevit*) or has given extrajudicially as a provisional judgment or has ordered by *edictum*, is agreed to be a law" (*Dig.* 1.4.1.1, Qtd. by Millar 206). The *edicta* were his decisions and declared purposes of many varied sorts; *decreta* were the verdicts of law cases; *epistulae*, *rescripta*, and *subscriptiones* were written responses to specific written requests of varied sorts. *Mandata*, which are also classed in this category by Jolowicz, were orders to his administrative inferiors (376-382).

Although this list is provided by the third century jurist Ulpian, in a sense it is merely a description of what the emperors did. That Gaius' edicts were considered law, for instance, is apparent by the fact that Claudius annulled them upon becoming emperor himself (Suetonius *Claud.* 11).

When the emperor wanted to make general law which would carry an added weight of authority, he followed a certain established process which included consultation of the senate and procuring its formal approval (*Cod. Just.* 1.14.8; Shulz 155). Hammond summarizes the equilibrium that came about:

The making of valid law remained in theory under the Augustan Principate the prerogative of the sovereign People. But in practice the Senate came to speak for the People, and the Emperor, through his preeminence in the Senate, guided its legislation. Moreover, the Emperor himself actually created much of the law in virtue of his

uncontested executive pronouncements which touched every aspect of the law (163)

Where certain legal formalities undergirding the emperor's power may have technically been lacking at first, in actuality he did permeate the whole Roman system. According to Tacitus, Augustus "gradually pushed ahead and absorbed the functions of the senate, the officials, and even the law" (*Ann* 1.2). The emperor made himself indispensable to its functioning both politically and legally, until the old Republican system was not an option in anyone's mind any more (Jolowicz 336).

THE SENATE

The senate continued to function under the principate and to claim a certain share of power. It was integral to Roman culture--part of its very identity, in fact--yet by its nature and by the nature of the emperor's role a certain competition for survival and for power was implicit in their relationship. An emperor was not ultimately free to act as if this limiting factor were not to some degree a part of the equation.

The relationship between the emperor and the senate from the very beginning, therefore, was "ambivalent" (Millar 351). This relationship was further complicated by the fact that the emperor himself was a member of the senate, indeed, its most powerful member. His *maius imperium* and *tribunicia potestas*, among other things, gave him the power to convene the senate, to introduce proposals, and to veto legislation. The decisions that the senate made, then, bore the mark of the emperor's approval on them.

In spite of the emperor's vast powers, the senate had the legal power to ratify him as emperor to begin with (Millar 351). On January 1 each year all members took oaths to uphold everything decreed by past emperors and everything to be decreed in the future by the present emperor (Dio 57.8.1). If an emperor was to be immortalized after his death by deification, the senate voted for or against this as well (Millar 351). In Claudius' case, the senate deified him (Suetonius *Claud.* 45). In Nero's case, the senate outlawed him, and he then committed suicide (Suetonius *Nero* 49). Because the emperor too was a senator and his crimes would reflect on the state, the senate could go so far as to decree him

damnatio memoriae, in which case his name would be removed from official documents as well as from oaths; sometimes his decisions would be negated (Hammond 105). In short, the senate retained a small but certain hold on the emperor, whose beginning and end was influenced by the innate authority of the senate.

Under the principate the senate actually developed some new functions. "Matters of imperial policy could still be debated in the senate, and *senatus consulta*, which in the republic had been in principle merely advisory, came to be quoted as sources of law in themselves" (Millar 341, 342). According to the *Digest*, a formal law proposed by the emperor and ratified by the senate carried extra weight (*Cod. Iust.* 1.14.8). We may assume, given the late date of the *Digest* and the elevated role of the emperor at that time, that this applied even more strongly to the early principate.

The senate also increased its function as a law court. It was an alternative court: appeals could be directed there; the emperor could send cases there; senators could request to have their cases tried there (Talbert 468, 69; 472; 480, 81; Millar 344). Obviously, the senate did not try the average criminal case. Rather, it tried cases "when individuals of high rank were involved; when the issue was especially serious or scandalous; or when an affair had attracted a special degree of public attention" (Talbert 467, also Garnsey *Social Status* 32.3). Often these cases had political overtones (Jones 94).

The procedures for a senatorial trial were a combination of both traditions in the public courts and rules for discussion in the senate (Jones 110). However, because the senate's authority covered a wide range of business, necessarily there was more flexibility of procedure than in a typical law court (Talbert 487). This procedure is of some interest to this paper because it is parodied in the *Apocolocyntosis* (8.9).

If the case was accepted, a period of preparation would usually be requested when prosecutors were assigned and evidence and witnesses were arranged. Senators were assigned both to prosecute and defend, and it was obligatory for them to accept. The day for the trial was arranged and the accused was formally charged (Talbert 481, 82).

The trial generally followed the usual court (*quaestio*) prescriptions, but a certain flexibility was often apparent (Jones 110). The consuls called the senate

together (Jones 110), and the trial opened with a rehearsal of the charges against the accused and with opening comments by the emperor or the consul. The prosecution first and the defense in turn presented their complete arguments, often using advocates. Each side had an allotted amount of time, marked by water clocks, which they could divide up and use any way they wanted. After the presentations, the evidence was displayed (Talbert 484-86). The senate then held a debate on the case, and the verdict and sentence were voted on, using the customary senatorial practices: the "senior senator" would be asked for his views on the case, and others would then either agree or suggest their own ideas. The voting, it seems, was public. Finally, whatever the senate decided was conclusive, and there was no more appeal possible, even to the emperor (Talbert 487).

Although the emperor often heard cases personally in his own court, he also could attend the senatorial court as a *privatus*. He could merely listen, be called on to speak occasionally and vote with the rest, or he could direct the proceedings by claiming his consular *imperium*. When he did participate as a *privatus* however, more weight tended to be given to his words than to those of others who spoke (Talbert 166). Above all, with his powerful veto the emperor could override the proceedings.

Although the senate in its new role as a law court added flexibility to the Roman legal system, and likewise the emperor as judge with his use of the *cognitio* process, it is apparent that many ambiguities remained to be resolved. If the expectations surrounding a *princeps's* relationship to the law were not entirely explicit at the time of Claudius, they existed nevertheless. The *Apocolocyntosis* itself reveals some of these expectations, albeit after the fact.

CHAPTER V

SENECA'S IDEAL EMPEROR

Having set the general historical context, I will now examine Seneca's own views on the ideal princeps and his relationship to the laws, drawing from sources other than the *Apocolocyntosis*. A certain caution must be exercised in taking Seneca's work at face value, for he wrote with specific audiences in mind and sometimes with hidden agendas. On the other hand, although Seneca did not always present a one dimensional view of himself and his opinions in his writings, his beliefs are still accessible. He wrote enough, and his writings are consistent enough, that a certain framework of belief becomes apparent. While there is only one work, *De Clementia*, in which Seneca directly addresses the role of the emperor, what he stresses in other treatises clarifies the presuppositions within which the arguments of *De Clementia* fit.

I will use *De Clementia* as a starting point from which to explore Seneca's beliefs on how the *princeps* should rule, especially in regard to his role as judge and his relationship to the law. I will supplement this with additional comments on the subject from his other works.¹⁹

Ad Neronem Caesarem: *De Clementia* was written in AD55 or 56, after Nero had already disposed of Claudius' son Britannicus, Nero's chief rival for the throne (Griffin *Seneca* 134; See Appendix A).²⁰ The work may have been written in part to publicize the policies of a moderate reign in spite of the murder in Nero's own house (Griffin *Seneca* 139). *De Clementia* lays out a moderate and just path for the emperor and hopes to steer him away from the excesses and errors committed by his predecessors. An overriding concern is the emperor's proper disbursement of justice.

The opening words of this treatise advise us that Seneca is in his diplomatic mode, for he writes on mercy to the new princeps "in order to serve in a way the purpose of a mirror, and thus reveal you to yourself. . ." (*De Clem.* 1.1.1). Seneca uses all his skill to reinforce any positive qualities he does see in Nero in order to cultivate them (Griffin *Seneca* 137), and takes advantage of the fact that Nero so

far had not yet indulged in public excesses (*De Clem.* 1.1.5; 11.2).²¹ Seneca asserts that Nero had no need of a model, because so far he has surpassed all his predecessors in his morality (*De Clem.* 1.1.6).

The first compliment Seneca offers concerns Nero's avoidance of anger and "youthful impulse," thereby refraining from condemning people "to unjust punishment. . ." (*De Clem.* 1.1.3). He lists several general examples of Nero's mercy. Later in the treatise at the beginning of Book II, Seneca makes a great point out of Nero's famous lament before he signed the death warrants for certain criminals, "Would that I had not learned to write" (*De Clem.* 1.2.2; Suetonius *Nero* 10). Seneca praises these things in order to commit Nero to them (Griffin *Seneca* 136).

It is clear that Seneca had no philosophical objections to the principate in principal. He never voices impatience with the concept of an emperor *per se*. In *De Vita Beata* he says, "We have been born under a monarchy; to obey God is freedom" (15.7), and in *De Brevitate Vita* quite plainly, "a state reaches its best condition under the rule of a just king" (22.20). Seneca accepted the institution as part of his times, and as part of the worldly constraints within which all must live and act. This belief is further illustrated, of course, by Seneca's role as Nero's policy-maker and adviser, and his minimal involvement with the senate.

Seneca describes Nero's thoughts as a literary device in order to describe the role of *princeps*. The princeps is "vicar of the gods" on earth, "arbiter of life and death for the nations"; he can decide "what each man's lot and state shall be," can decree which areas of the empire to benefit and from which to withhold blessings; he can declare war and put the army into action. "All things are at [his] disposal" (*De Clem.* 1.2.3).

In spite of the fact that Seneca begins with this portrait of an all-powerful emperor, he is very explicit about the constraints surrounding the emperor. The paradox is explicated in a rhetorical question to the princeps: "Are you not aware that the sovereignty is ours, the servitude yours?" (*De Clem.* 1.8.1). Other people can hide their vices in the crowd: everything the emperor does is public. The emperor cannot walk unattended and unarmed through the city; he cannot give up his position if he chooses to: "you are nailed to your pinnacle." Even if he changes clothes, everyone notices. When he speaks the whole world hears his voice. Repeated punishments, easy for a prince to decree, end up threatening his security (*De Clem.* 8.1-7). The emperor is not free to do many things which

common men are free to do. In short, the emperor does not own the state, but paradoxically, "he is the state's" (*De Clem.* 1.19.8)

Furthermore, the princeps is "the soul of the state, and the state [is his] body" (*De Clem.* 1.5.1). Later in the treatise Seneca states that "at an earlier day, in fact, Caesar so clothed himself with the powers of state that neither one could be withdrawn without the destruction of both. For while a Caesar needs power, the state also needs a head" (*De Clem.* 1.4.3). Seneca uses the analogy of the head/body to argue for an organic whole and for the personal benefit to the emperor if he follows the correct principles. If the emperor harms any of his subjects he is actually harming himself (*De Clem.* 1.5.1.2). The emperor is part of the Roman societal structure and his position carries obligations with it. If as emperor he is above certain written laws, even all the written laws, he is not free from obligation and restriction.

The paradox of ultimate power and lack of freedom exists only on the earthly, visible world. Underneath all of Seneca's teaching and admonition lie the presuppositions of universal moral law, or natural law, within which fit explicit written laws. In *De Otio* Seneca expresses the principle of the universal versus the particular which, being a Stoic, pervades all of his works:

Let us grasp the idea that there are two commonwealths--the one, a vast and truly common state, which embraces alike gods and men, in which we look neither to this corner of earth nor to that, but measure the bounds of our citizenship by the path of the sun; the other, the one to which we have been assigned by the accident of birth (4.1; also see *De Vita Beata* 3.2)

This can be further explored by examining what Seneca has to say about laws. Seneca believes that originally there was no need for law, until "vice stole in and kingdoms were transformed into tyrannies" (*Ep.* 90.6), that is, until the ultimate universal laws were being broken. "A law," he says, "is the measure of justice and injustice, and a measure is not something desirable in itself" (*De Ben.* 4.12.1). Human laws are attempts to control undesirable behavior, attempts which only manifest the much more serious breaking of the universal moral truths. And they control undesirable behavior quite imperfectly, for "there are many things that do not come under the law or into court, and in these the conventions of human life, that are more binding than any law, show us the way. No law forbids us to divulge the secrets of friends; no law bids us keep faith even with an enemy. .

.. " (*De Ben.* 5.21.1). Seneca is quite consistent throughout his writings in upholding the idea of universal moral truths which written laws reflect inadequately. Interestingly, he assigns human convention as a better visible guide to ultimate morality than the law.

Seneca's general attitude toward lawyers is in keeping with his assessment of the inadequacy of written law. They are characterized as "tricksters" (*De Ira* 2.28.7) and busybodies out for "disreputable gain" (*De Brev. Vita* 12.1).

The emperor in Seneca's description acts on a level beyond these unsatisfactory earthly laws. But he is not above natural law. The physical restrictions on an emperor's lifestyle already enumerated are nothing compared to the restrictions of universal morality. An emperor can be within his legal rights in what he does and yet fail morally. He can cause the state to suffer loss "either from violence or from fraud" (*De Clem.* 1.1.5). If this is the case, he has failed to live as an emperor should. He must live as if he had to render account to the immortal gods for his actions (*De Clem.* 1.1.4), who presumably would judge him according to these universal principles of right and wrong.

How limited is the innocence whose standard of virtue is the law! How much more comprehensive is the principle of duty, than that of the law! How many are the demands laid upon us by the sense of duty, humanity, generosity, justice, integrity--all of which lie outside the statute books (*De Ira* 2.28.2).

The emperor, even if he can escape particular laws, cannot escape the more pressing demands of "duty, humanity, generosity, justice," and "integrity."

De Beneficiis, although not addressed to nor written about the *princeps*, contains certain comments about rule which shed light on this discussion. In context, these comments are generally intended as illustrative, using truths about the emperor to clarify other truths. The emperor Seneca speaks of is ideal, for: "... under the *best sort* of king everything belongs to the king by his right of authority, and to his subjects by their individual rights of ownership" (*De Ben.* 7.5.1; see also 7.4.2). One other passage is particularly striking:

Everything belongs to Caesar, yet the only private and personal property he has is the imperial treasury; all things are his by right of his authority, but his personal property is acquired by right of inheritance. The question may be raised as to what is his, and what is not his, without assailing his authority; for even that which the court

may decide belongs to another, from another point of view belongs to him (*De Ben.* 7.6.2).

The princeps is the dominating factor. His power is extreme. But an ideal emperor, living according to the higher moral principles, would respect the laws of the land. Theoretically a question of private ownership involving the emperor could come before the court and a decision be made in favor of a private citizen. Where laws are written, "in legal actions we ourselves have no power--we must follow the path by which we are led. . . ." (*De Ben.* 6.6.1). The emperor should, in fact, allow himself to be subject to decisions of the court. Furthermore, Seneca cautions Nero to live as if he were going to "render account to those [very] laws" which he has recalled into use (*De Clem.* 1.1.4). Observance of man-made law, inadequate thought it may be, is part of living according to natural law.

It goes without saying that the emperor participates as judge in his empire. Seneca describes the process an ideal judge should go through in considering a case, along with certain pitfalls to be avoided:

Reason grants a hearing to both sides, then seeks to postpone action, even its own, in order that it may gain time to sift out the truth; but anger is precipitate. Reason wishes the decision that it gives to be just; anger wishes to have the decision which it has given seem the just decision. Reason considers nothing except the question at issue; anger is moved by trifling things that lie outside the case. . . . Many times it [anger] will condemn the accused because it hates his lawyer; even if the truth is piled before its very eyes, it loves error and clings to it; it refuses to be convinced, and having entered upon wrong it counts persistence to be more honourable than penitence (*De Ira* 1.18.1,2).

Seneca deals in this passage with underlying principles and not with specific judicial procedure, but it is clear that certain aspects of the human process are considered identical with universal law. Most importantly, a case should have both sides heard. It must not be judged hastily. When coming to a judgment, reason must not be scullied with emotion, particularly anger. The point of legal question at hand should not be distorted with other considerations. In all these ways, universal law corresponds to established human procedure.

In this same treatise, Seneca terms the emperor, "guardian of the law, ruler of the state," and exhorts the emperor to be mild in his punishments, always holding forth the goal of restoration and encouragement toward right actions (*De Ira* 1.6.2,3; 1.19.5-8). Even when he must determine on capital punishment in

order to work within the framework of justice, his aim should be for the best interests of the person and for the healing of the state (*De Ira* 1.6.4). Above all, the emperor should not assign punishment in anger, not even in the most extreme cases (*De Ira* 1.6.6; 1.16.5). "How free he ought to be from all emotion when he proceeds to deal with a matter that requires utmost caution--the use of power over life and death. 'Tis ill trusting an angry man with a sword" (*De Ira* 19.8).

Seneca points out that "[*clementia*] is shown to better advantage upon the judge's bench than on the floor" (*De Clem.* 1.5.3). He defines *clementia* (mercy), as
 restraining the mind from vengeance when it has the power to take it,
 or the leniency of a superior towards an inferior in fixing punishments.
 . . . Mercy may also be termed the inclination of the mind towards
 leniency in exacting punishments (*De Clem.* 2.3.1).

While *clementia* is a virtue for anyone, it is the most important virtue for an emperor, for the emperor is the peak of human authority in his world. Anyone can harm and kill: only the emperor has the power to intervene and save lives (*De Clem.* 1.5.4,6).

Griffin's discussion on Seneca's view of *clementia* sheds further light. She holds that Seneca's definition of *clementia* "bears a very ambiguous relation to law" (Griffin *Seneca* 160). The emperor, particularly in setting punishments, is effectively above the written laws, although his judgments ought to accord with the principles of equality and justice. Griffin believes that Seneca's advice was directed toward the *cognitio* process, which allowed the judge considerable flexibility in judging a case (Griffin *Seneca* 161, 62).

Under this legal flexibility, the emperor could ignore precedent and take into consideration the betterment of the state and of the person in question--always in "light of the basic principles of punishment" (Griffin *Seneca* 163). In this process, *clementia* ideally would assign the least harsh of permissible punishments (*De Clem.* 2.2.1-3; Griffin *Seneca* 164).

Although Seneca claims in *De Clementia* that Nero had no need of examples, since he is the best of Caesars, Seneca nevertheless does not hesitate to bring up Augustus as a paradigm of mercy.²² Seneca carefully qualifies the model: he is not referring to Augustus' early years of shared rule. Augustus' early cruelties make Nero superior to him (*De Clem.* 1.9.1). Still, one can learn from Augustus' later years. Seneca dwells on the reputation which Augustus gained as a result of

the mercy he showed: "today this preserves for him a reputation which is scarcely within the power of rulers even while they live" (*De Clem.* 1.10.2-4).

Seneca particularly praises Augustus as judge. In one case, for instance, he chose to participate as a private citizen rather than in his role as princeps. Augustus was so sensitive that he had everyone give a written verdict in order to avoid influencing the jury. Seneca also praises Augustus for moderation in verdicts: where the horrible "sack" could have been decreed for punishment in one parricide case, a mere sentence of exile to another city was required (*De Clem.* 15.4-7).²³ The emperor's legal potential to use his power is evident throughout his discussion; Augustus' moderation, when he could have exercised much more severity, is lauded as exemplary.

Augustus has been used as a positive example: Claudius now enters as a negative example. "Your father [Claudius] within five years had more men sewed up in the sack than, by all accounts, there had been victims of the sack throughout all time" (*De Clem.* 23.1). A dubious cause and effect is deduced: when Claudius began to enforce this law and assign the extreme penalty, more children committed parricide (*De Clem.* 1.23.1,2).

Seneca also offers models of "lesser power" (*De Clem.* 1.16.2), arguing that no father who is unloving or teacher who is cruel or tribune who is harsh is effective (*De Clem.* 1.16.2-5). Even slaves and chattel must be treated decently, according to "the principles of equity and right" (*De Clem.* 1.18.1,2). The emperor in accordance with these higher principles illustrated by everyday life ought to treat his subjects with kindness and mercy (*De Clem.* 1.18.3).

In the judging of cases, Seneca differentiates between the emperor's own wrongs and cases where others have been wronged. Where the emperor has been wronged, the case provides a special opportunity to display *clementia* (*De Clem.* 1.21.1,4). In cases concerning others, the princeps should be reluctant to punish, but when he must, he should do it in a grieved manner (*De Clem.* 1.22.3). The clement judge, in short, will rationally offer the least harsh of a range of legal punishments (Griffin *Seneca* 159).²⁴

Seneca portrays an ambiguous, quasi-superior Imperial relationship to the law. Yet the emperor is bound to the universal laws of morality, which would entail respect for customs and for established law. Even if the emperor theoretically functions above the laws, Seneca describes him as "guardian of the

law." His job, in effect, is to uphold the law of the land. In his role as judge, the emperor should still hear both sides of the case, weigh a case on its own merits, and attempt to discard outward distracting factors. Above all, as Burrus suggested to Nero when he contemplated killing his mother, "everyone must be given an opportunity for defence" (Tacitus *Ann.* 13.20).²⁵ By the standards of universal law, as a judge he is obligated to hear both sides of a case and then judge mercifully.

Seneca upheld the *princeps*' authority to a degree that presaged the Dominate. His arguments for mercy and moderation were not based on legal requirements at all: he recognized the reality of a *princeps* virtually free from legal constraints. But he argues from every other point of view he can muster for the emperor's observance of a moderate and merciful course. If the emperor is technically free from certain or all human laws, nothing can free him from his obligation to universal law.

Seneca described the reality which he saw before his eyes (Griffin Seneca 170), and he did not tenaciously hang on to the old forms, even theoretically. Nero was to usher in a golden age of rule in accordance with universal moral principles.

CHAPTER VI

CLAUDIUS THE JUDGE

The purpose of this section is to provide an understanding of Claudius' rationale behind the actions which come under criticism in the *Apocolocyntosis*. In the concluding section, many of the threads taken up here will be tied into the work.

THE SOURCES

There are two traditions in antiquity which interpret Claudius and his actions: one positive and one negative (Scramuzza 33). Most of the sources which have survived to the present day describe Claudius in negative terms (Scramuzza 3). Chronologically these sources begin with Seneca, Claudius' contemporary, and it has been suggested that later sources draw their antagonism from him. Seneca's statement from the clearly hostile *Apocolocyntosis*, "Whoever demanded sworn referees from a historian?" (*Apocolocyntosis* 1.2) condemns him from his own mouth as a reliable source, in one opinion (Scramuzza 4).

Pliny the Elder, another contemporary of Claudius, refers to him in positive terms and is not overtly critical or hostile. He admires Claudius' scholarship and actually uses his works as sources for his own *Naturales Historia* (Scramuzza 34). The juxtaposition of the two contemporaries, Seneca and Pliny, argue for the presence of bias in one or both. However, this assessment must be tempered by two things: Pliny's references are simply brief allusions and nothing more; Seneca's quote is taken from a satirical context.

Josephus, next in chronology, gives accounts of Claudius' rule in two different works: these vary somewhat in their interpretation of him. References in the *Bellum Judaicum* are brief (11.11.1 - 12.8), but portray Claudius in a positive light. The *Antiquita Judaicae* is more detailed and written under the anti-Julio-Claudian influence of the Flavian dynasty (19.3.1 - 20.8.1). Not

surprisingly, it is the more hostile of the two portrayals (see Scramuzza 11-18).

Suetonius, writing in the early second century, gives us biographies of Twelve Caesars, of which the life of *Claudius* is our main source. Suetonius has been criticized as an inaccurate, light biographer intent on caricaturing his subjects, caring nothing for sequence of events (Scramuzza 26-32). Tacitus, a contemporary of Suetonius, wrote the Annals of Imperial Rome, which record the last part of Claudius' rule (*Ann.* 11,12). He is accused of holding a narrow, negative preconception concerning the principate which "unconsciously led him to adopt tainted sources"--those which confirm his own prejudices (Scramuzza 21). The worst problem with Tacitus for our purposes is that the texts on the first half of Claudius' rule are not extant (Scramuzza 22). Cassius Dio in his Roman History, though writing in the early third century, presents a critical but not vindictive perspective. In Dio we see the two lines of historical sources, both negative and positive, coming together. Consequently Claudius' faults are not so underscored as in Tacitus and Suetonius (Scramuzza 32-4).

Imbedded in the sources recognizably hostile to Claudius there are facts which, when torn from the imposed interpretation of these historians, can be read in other ways. A case can thus be made for Claudius' rationality, good intentions, measured decisions, and zealous government of the empire. Claudius' building programs and campaign in Britain, for instance, are sometimes minimized but rarely criticized by ancient authors. His attempts at the rationalization of government are described, even though these authors may sympathize with those who lost out in the changes. Claudius' concern for a rationalized justice system was recognized if disliked. Even some of Seneca's treatises, hypocritical or not, contain praise for the emperor. These works often contain statements which can be validated elsewhere (Scramuzza 6,7).

In addition to reading the extant histories, if one looks at the other sources in which Claudius sometimes represents himself, an even more positive picture of him emerges. The two most important documents for this paper are the famous bronze tablet at Lyons which records Claudius' speech in favor of including prominent Gauls in the senates (Smallwood Documents 369; Trans. Miller Inscriptions 33); and a speech on papyrus which was delivered before the senate concerning legal processes (Smallwood Documents 367; trans. and qtd. by Scramuzza 110, 11).²⁶ We may start from the premise that these direct documents

carry additional weight (Scramuzza 3).²⁷

Human warmth, personal interest, good intentions, and a certain wisdom filter through the sources remaining to us, critical or not. This is most evident in the above-mentioned documents, but is also true of the semi-critical pages of Suetonius, and in a distorted way, even of the *Apocolocyntosis*. But even when such a rehabilitated picture of Claudius is constructed by disallowing the obvious prejudices of ancient writers, particular insistent criticisms persist, most probably representing a certain truth. These complaints include Claudius' being vulnerable to manipulation by his freedmen and wives; his being unaware of important things which he should have known; his unpredictability; and his execution of a disproportionate number of senators, knights, and others. These will be discussed below.

CLAUDIUS AS JUDGE

Having briefly mentioned the major sources and the problems underlying them, I will now turn to look at the aspects of Claudius' rule which touch on the subject of this paper. Claudius' judicial activity is commented on, to some degree or other, by all the ancient historians who describe his life in any detail. Pliny recorded, in one of his only anecdotes about Caesar, the outcome of a law case (*Nat.* 29.54). Josephus recounts a case where Jewish and Samaritan provincials are sent to Claudius for judgment (*BJ* 2.12.11; *AJ* 20.6.2,3). Suetonius devotes a good part of his presentation to Claudius' legal activities. Tacitus relates several cases where either Claudius judged ineptly, in Tacitus' opinion, or neglected to take people through the proper trial process. Cassius Dio periodically comments on Claudius' judicial activity. And Seneca, in his *Apocolocyntosis*, uses a legal motif to voice his objections to Claudius' rule, objections which revolve around Claudius' misuse of judicial power. Even Claudius' own speech to the senate, preserved on papyrus, concerns judicial and legal problems.

Claudius acceded to the emperorship in AD41, relying on the force of the praetorian guard, and he was ratified as emperor by an unwilling senate. He promised to share authority with the senate and to rule his subjects moderately and justly in contrast to Gaius before him (Josephus *AJ* 19.4.2). To prove his good will, one of his first acts brought back many political exiles, including Agrippina and

Julia Livilla, Gaius' sisters (Dio 60.4.1). He abolished the charge of *maiestas* ("diminishing the majesty of the Roman people" [Levick 115]), releasing the many prisoners who were being held on this charge (Dio 60.3.6; 4.2). He declared a general amnesty for those who had opposed his emperorship (Suetonius *Claud.* 11; Dio 3.5).

Both Suetonius and Dio mention his legal activity in the same breath with which they relate Claudius' first actions on coming to power (Dio 60.4; Suetonius *Claud.* 12). Dio says that when Claudius released the many prisoners from jail, he did it after "investigat[ing] all the cases carefully" in order to punish only those truly deserving it (Dio 60.4.2).

Claudius saw the emperor's chief role as that of judge, if we can judge him according to his activities. Dio records that he sat, usually in the Forum, judging cases daily. He renewed the practice, neglected since the time of Tiberius, of calling on a group of advisors. Other times he would judge in the company of the senate (Dio 60.4.3). Dio provides a description of Claudius bringing cases to the senate and participating in the process when trying a number accused of a conspiracy against him:

The accused were tried in the senate in the presence of Claudius, the prefects and the freedmen. He would read the charge seated between the consuls on a chair of state or on a bench; then he would go to his accustomed seat and chairs would be placed for the consuls. This same procedure was followed on other occasions of great importance (Dio 60.16.3).

Josephus also describes Claudius judging a provincial problem between the Samaritans and the Jews. A governor of Syria, Quadratus, had resolved some of the issues but sent the most prominent men to be tried by Claudius, who decided in Jewish favor and executed certain Samaritans. The Roman tribune who had acted injudiciously was given over to "Jewish outrage," a rather unorthodox solution: he was trailed around the city and then beheaded (*BJ* 2.12.11; *AJ* 20.6.2,3).

Suetonius records that Claudius would sometimes sit as an advisor in the magistrate courts (*Claud.* 11). Claudius also joined in with the consuls and praetors in financial investigations right from the beginning of his reign. Dio mentions that he rarely turned over the cases to other courts: by implication he had delegated some of his authority to lesser judges (Dio 60.4.4).

Claudius' activity in the courts was so notorious that the ancient sources

provide several striking examples of his unusual dedication. He sat in court judging even on his own birthday or on that of family members; also on holidays or inauspicious days (Suetonius *Claud* 14). When one of his daughters was betrothed and another was married, he did not make any exceptional celebration, but "he himself held court on those days and the senate met as usual" (Dio 60.5.8). When Claudius celebrated his victory over Britain by giving 300 sesterces apiece to those on the public dole, he had his sons-in-law help him because he wanted to go back to holding court (Dio 60.25.7,8). Claudius was so zealous that he added time to the law court sessions: until his rule, there had been a winter session and a summer session, but now the court sessions encompassed the year (Suetonius *Claud* 23).²⁸

When Suetonius in particular, and others as well, describe Claudius' personal habits and idiosyncracies, often the setting is the law courts. To illustrate Claudius' insatiable appetite, Suetonius brings up the time when in the middle of a court session in Augustus' forum, Claudius smelled food cooking at the priestly college next door and summarily closed court so he could eat with the priests. His habit of nodding off for short naps is illustrated in court, with lawyers unsuccessfully shouting to wake him (*Claud* 33). His alleged bloodthirstiness is depicted by his lust for watching evidence-extracting torture, or the punishment of criminals he had condemned (*Claud* 34). His inability to command respect is pointed out in a court setting: people pulled at his hem and called him back after the court was closed, angry verbal abuse was directed toward the emperor himself (Suetonius *Claud* 15). Another time Claudius lost patience with petitioners and cried that he was under no obligation to hear them, for "surely he was free, if anyone was!" (Suetonius *Claud* 40). At the tribunal Claudius is described displaying his knowledge of Greek, where he often quoted lines from Homer, and according to Dio, provoked ridicule (Suetonius *Claud* 46, Dio 60.16.8). He endeared himself to the people by apologizing to their tribunes when they were improperly forced to stand before his tribunal (Suetonius *Claud* 12). Dio and Tacitus both mention Claudius receiving the foreign kings, Mithridates and Caratacus respectively, as well as other foreign delegations, seated on his tribunal. Strikingly, he allowed Agrippina to sit on a nearby tribunal of her own (Dio 60.32.4^a, 33.7; Tacitus *Ann* 12.37). And it was from the tribunal that he announced shortly before his death that his

lifework was nearly ended (Suetonius *Claud.* 46). In fact, Suetonius fittingly ends his narrative this way:

CLAUDIUS' RATIONALE

Claudius seems to have had a two-sided philosophy behind his judicial policy. This tendency extended to other areas besides that of his legal activity, so I will discuss it in more general terms first. Claudius believed in following precedent, but he had discovered that innovation could be found in ancient precedent. Innovation was needed to bring the law into accordance with the spirit of justice and equity in the context of the changing needs of an evolving empire. This is really a key to understanding and interpreting many of Claudius' actions. But if Claudius' rationale held together in his own mind, it was often perceived as schizophrenic and arbitrary by others. For instance, Suetonius describes this phenomenon in quite unflattering terms: "In matters of religious ritual, civil and military customs, and the social status of all classes at home and abroad, Claudius not only revived obsolescent traditions but invented new ones" (*Claud.* 22). When Dio lists a number of changes Claudius instituted, he notes that "he became so used to settling all these matters by his judgment and not by precedent that he arranged other affairs in the same manner" (Dio 60.5.6). In both comments, Claudius is perceived as arbitrarily ignoring precedent.

A simple illustration of this principle in action can be found in Claudius' additions to the alphabet. In the course of his historical study, Claudius found that the alphabets of the Greeks and the Romans had gradually developed over time. Since there were sounds in the Latin which were not adequately symbolized by the Latin alphabet, Claudius thought to rectify this lack. He found in this historical precedent a rationale for adding his three new letters (Tacitus *Ann.* 11.13,14).

Another instance can be found in Tacitus' interpretive version of the speech by Claudius where he proposed to include certain Gauls into the senatorial class. Claudius saw them as thoroughly Romanized citizens, obviously worthy of inclusion. He argued that innovation had had its precedents, too, in the Roman Republic (Tacitus *Ann.* 11.23-25).²⁹

This underlying rationale, that precedent is authoritative, but precedent includes innovation, explains much of his activity as judge of the empire as well.

Claudius believed in the principle that the written law as it stood did not always provide justice. Suetonius put it, "Instead of always observing the letter of the law, he let himself be guided by his sense of equity." This comment is set in the context of punishments which Claudius had decreed according to his own judgment, and is a negative perception of Claudius' activities as judge (Suetonius *Claud* 14). But since this was a right of the emperor, using the *cognitio* process (see above 34), Suetonius' presentation can be considered uninformed on this one issue.

Claudius did take liberties with the punishments prescribed by law, making them more severe or more lenient as he deemed fit. Yet he worked within the principle already described, preferring to follow ancient precedent when possible. The most notorious example of reviving old practices was the "sack" for persons convicted of parricide, a punishment which had fallen out of use as the Romans had reached a more "civilized" state. Other instances of "old-fashioned execution[s]" and rites are also recorded (Suetonius *Claud* 34, Tacitus *Ann.* 12.78, Seneca *De Clem.* 1.23.1). In these cases, he simply "allowed the Law to take its course without delay and in his own presence"--a reference to the use of those outmoded punishments prescribed by ancient law (Suetonius *Claud* 34). He felt these punishments did not need innovation--the letter of the law, even if he could legally supercede it, corresponded to true justice according to the merits of the case. Dio discusses an excess of enjoyment as some condemned were killed by brutal means in the arena: Claudius rather felt that these so condemned fully merited their punishments (Dio 60.13.1-4, Suetonius *Claud* 14). But in a sense, by adhering to ancient tradition, he actually broke with evolved tradition by renewing the old letter of the law (see Levick 117).

Claudius concerned himself with changing the law to adjust to the changing realities of his day and to reflect more perfectly the natural law. In a speech he gave to the senate, for instance, his goal was to revise the law in order to stop legal abuses which he had pinpointed (Smallwood *Documents* 367, Trans. and qtd. by Scramuzza 110,111). He based his argument for the justice of his proposal on "nature itself, even more than the law..." which underlines his preoccupation with true justice as opposed to legal correctness which might disguise underlying wickedness. The specific problems revolved around plaintiffs who would bring charges and then, while the accused was left to face the court, would go traveling. This would make them inaccessible to the court, and prolong anxiety for the

accused. Claudius proposed to empower the praetor to summon the accuser. If he did not appear, the case would be dropped as "one based on slander and fraud."

Claudius generally distrusted accusers, accusing them in turn of "amazing tricks" and of using "evil arts" for their wicked ends (Smallwood Documents 367; Trans. and qtd. by Scramuzza 110, 11). Dio notes that he punished false plaintiffs particularly harshly (60.13.1-4). By AD46 the number of law cases had multiplied to the point that those who thought they would lose their cases would not even bother to show up. Claudius ruled that he would judge against absent plaintiffs by a set day, and Dio says, "he strictly enforced this rule" (Dio 60.28.6). This may in fact be a reference to the attempt to halt the abuses by plaintiffs mentioned above. The point for this discussion is that Claudius was concerned with the underlying principles of justice, and yet respected the law enough to try to bring it into accordance with his idea of the natural order. In this speech Claudius also proposed a law to compel jurymen to finish up all the cases before taking their traditional recess--another display of concern for justice.

An example of Claudius' attempt to dispense justice and yet to conform to legal formalities which seemed to militate against this possibility is provided by those who lost their case merely because they claimed an illegal amount of damages. Claudius allowed the plaintiffs to bring the case back a second time and to plead it in conformance with established legal guidelines. Claudius observed procedure, yet allowed the legal flexibility of a re-trial in order to dispense what he saw as true justice. This example is one of several offered to illustrate Suetonius' generality: "During these terms of office [consulship] and, indeed, at all times, Claudius was a most conscientious judge" (*Claud.* 14)

Although Suetonius does credit Claudius with good intentions, he also lodges a major complaint against Claudius: his arbitrariness in passing judgment. "His behaviour in hearing and deciding cases varied unpredictably: sometimes he was wise and prudent, sometimes thoughtless and hasty, sometimes downright foolish and apparently out of his senses" (*Claud.* 15). Suetonius lists novel punishments and odd procedures in a couple of cases to prove his point. In one case Claudius wrote the verdict before the trial took place: "I decide in favour of the party which has told the truth," a flippancy (or profundity) which brought him disapproval. In another case Claudius allowed prostitutes' evidence when trying a Roman knight, a lack of tact which provoked the knight to hurl a stylus and wax

tablet into Claudius' face. One lawyer thanked Claudius for allowing him to represent his client, adding, "Though this is, of course, established practice," betraying a perception that Claudius was arbitrary and unpredictable (*Claud* 15). Likewise illustrative, a certain lawyer was reluctant to admit to Claudius that a summoned provincial witness did not appear because of his death. "I trust," said the lawyer, "the excuse is legitimate" (Suetonius *Claud* 15). All these incidents are offered to illustrate Claudius as arbitrary and unpredictable as judge.

But these ancient comments merely betray perceptions of Claudius as unpredictable: in fact all these actions fit within Claudius' own framework of reference already indicated. The premature verdict for the truth bespeaks his underlying desire to find the truth of a case before passing judgment. The prostitute's evidence was admitted with the goal of finding the truth: Narcissus, Claudius' trusted freedman secretary, chose two of Claudius' own lower class mistresses to inform him of Messalina's degeneracy. Narcissus knew that Claudius gave credence to the lower classes in some degree as well as the high, whether the knight felt them appropriate witnesses or not (Tacitus *Ann* 11.29; Dio 60.31.4).

The lawyer's gratefulness at being allowed to represent his client may be related to Claudius' decision in his role as censor to make people "give an account of their own life without a lawyer" (Suetonius *Claud* 16)--but the general picture of his court activity shows that this practice did not apply to cases in general. Claudius had rather been resented for protecting advocates' rights (see below 57). The reluctance to admit that the witness was dead may have been associated with Claudius' decisions against absent plaintiffs. In both of these cases these lawyers merely betrayed their own misunderstandings of Claudius' underlying principles of judgment.

On one surprising occasion Claudius, becoming angry with a certain Julius Gallicus who was pleading a case, ordered him to be thrown into the Tiber, which was in the vicinity of the court (Dio 60.33.8). This order actually accorded with Gallic tradition of which Claudius was obviously aware: if a speaker failed to please, he was thrown into the river (note the implication of the name) (Levick 118). This same thing had actually happened to Claudius himself one time when he was sent as a representative to Gaius (Suetonius *Claud* 9).

This incident brings up another point of consideration when trying to understand Claudius' mindset. His antiquarian interests are well attested as is

indicated by the histories he wrote: Etruscan, Carthaginian, and Roman beginning from the time of Julius Caesar (Suetonius *Claud.* 41,2). This interest reached into his handling of judicial matters as well: where Suetonius depicts him as bloodthirstily watching executions, for instance, he notes that Claudius had ordered an ancient Gallic method of execution (Suetonius *Claud.* 34). This, it seems, was what had attracted Claudius' interest. His recall of the "sack" for parricides might be argued to fit under this explanation as well (Seneca *De Clem.* 23.1).

In another case Claudius' knowledge of Druid beliefs led him to what seemed an arbitrary execution: during a lawsuit a Roman knight of the Vocontii tribe held under his clothes a "wind-egg," prized by the Druids because it was known to give victory in the law courts and grant access to rulers. When discovered, the man was executed for having it, "and for no other reason" (Pliny *Nat.* 29.54). This story merely illustrates Claudius' determination to stamp out the Druid religion, a goal which evidently superceded the particular charges at hand and in his mind warranted a break with procedure (Suetonius *Claud.* 25).

The one irregularity Claudius allowed himself was to "take vengeance" on those who had slighted or injured him when he was a private citizen. According to Dio, he did not seek them out, but if they came before him in a court case, their punishment would be that much heavier. Obviously this was not correct legal procedure, but the poetic nature of the justice cannot be overlooked, either (Dio 60.3.7).

The flexibilities Claudius allowed himself, though often perceived as arbitrary, generally were his attempt to observe tradition yet make appropriate innovations in order to dispense true justice. His aims were misunderstood by many of his contemporaries, or understood with no sympathy for his purpose.

LAWMAKING AND DELEGATION

Claudius attempted to follow precedents when possible in passing judgment, but he also took the liberty of innovating when he felt his innovations would lead to a truer justice. This is true not only of his activity as a judge, but also as a lawmaker. Levick points out that "Claudius' legislation, unlike his judicial activity, has escaped unfavourable comment, indeed has won praise" (120; also May 72).³⁰ For instance, the *Lex de Imperio Vespasiani* which concerns the investiture of

Vespasian as emperor, names Claudius as one of the paradigmatic *principes*. Claudius' extant speeches show him bringing his proposals before the senate for discussion and approval; the extant decree in Herculaneum illustrates the same. Other major laws were passed procedurally as well.³¹ All these indicate that he observed legal and constitutional forms in making law.

When Levick boldly states that Claudius' legislation was perceived positively, she is not including some of the lesser edicts, particularly in conjunction with his duty as censor (Suetonius *Claud.* 16). Claudius donned the title temporarily in order to revise the senatorial roles, making sure that titles corresponded with reality (Tacitus *Ann.* 11.25; Suetonius *Claud.* 16; see Levick 122). Once again, Claudius was concerned with making formalities correspond to the actualities, a principle that he generally tried to observe.

The changes Claudius introduced to the judicial system itself predictably provoked criticism. He established permanent courts to hear fiduciary cases, where there had been yearly magistrates appointed before, perhaps an outgrowth of the time Claudius had spent investigating these cases himself (Dio 60.4.4). He also shifted certain judicial cases from the consuls to the praetors, a move resented by those affected negatively by it (Dio 60.24.3; also see May 84).

Claudius delegated his own authority to his agent knights when they dispensed justice. Augustus had done this for the knight ruling Egypt, but Claudius expanded it to include more of his personal representatives (Dio 60.11.7,8). More appallingly to some, Claudius gave his freedmen overseers to whom he had delegated the charge of his own land, "equal authority with himself and the law" (Tacitus *Ann.* 12.60; Smallwood *Documents* 368; trans. Miller *Inscriptions* 46; Suetonius *Claud.* 12; see May 83). In one instance Claudius punished an official acting under him for "irregularities," tacitly accepting the burden of his delegated authority (Tacitus *Ann.* 12.55; Josephus *BJ* 2.12.11; *AJ* 20.6.2,3).

Tacitus believed that there was more place for corruption in the legal system after these changes Claudius made. "For the emperor's absorption of all judicial and magisterial functions had opened up extensive opportunities for illicit gain" (Tacitus *Ann.* 11.5). This was chiefly manifested, according to Tacitus, in the ability to pay for "an advocate's treachery" (Tacitus *Ann.* 11.5). This issue developed into a public debate led by Gaius Silius who fought to have the ancient Cincian law enforced, a law which disallowed gifts and payment for representation

by an advocate. Silius argued that paying lawyers encouraged an abundance of law cases, because lawyers wanted to become rich. Others, however, held that lawyers too needed to make a living, and it was one way for men of lesser status to acquire fame. Claudius compromised by setting a limit on the fees lawyers could charge: 10,000 sesterces as a maximum for a case (Tacitus *Ann.* 11.6-8).

Clearly, Tacitus viewed lawyers as greedy and manipulative, while Claudius contrarily saw plaintiffs as conniving and evil. No doubt there was some truth on both sides. Claudius' sympathies may reflect his own negative personal experiences in court before coming to power (Suetonius *Claud.* 9, 38), while Tacitus reflected the standard senatorial elitist viewpoint (Tacitus *Ann.* 11.6). The point here is that he connected their practices with changes Claudius made in the justice system.

MANIPULATION AND FEAR

Much more serious than any of these complaints about Claudius were allegations that some individuals were executed without a trial or the chance to offer a defence, or that even with a trial justice was miscarried because of manipulation. This criticism is to be found in most of the sources.

For example, in the course of Claudius' biography, Suetonius lists as victims Claudius' sons-in-law, Gnaeus Pompeius Magnus and Cornelius Faustus Sulla (both married to his daughter Antonia, one after the other) (*Claud.* 27, 29; see also Dio 60.29.6^a; 60.30.6^b); his father-in-law Gaius Appius Silanus; Julia, daughter of Tiberius' son Drusus (at the prompting of Messalina [Dio 60.18.4]); and Julia, daughter of Claudius' own brother Germanicus: "all on unsupported charges and without the right to plead in self-defence" (*Claud.* 29). In this passage Suetonius also reports that Claudius had put to death thirty-five senators and three hundred Roman knights, loosely classing them as executions influenced by either Claudius' freedmen or wives or both (Suetonius *Claud.* 29; see *Apocolocyntosis* 14.1). This passage is not the only example. Tacitus mentions several trials where the implication is that trials or not, Claudius was manipulated by wives and freedmen and justice was not served (Tacitus *Ann.* 11.2-5, 35-8; 12.2-4; 65; Dio 60.2.4). Claudius was known and remembered accordingly, not only for his activity in the courts, his adjustments to the judicial system, but also for a disproportionate number of

executions.

I will address first the accusations of lesser weight. There is no doubt that Claudius deliberately gave much power to his trusted freedmen as he sought to administer the government. This was resented by many status-conscious Romans, and there is ubiquitous criticism by the ancient authors that Claudius was manipulated by his freedmen. Contrarily, it has been argued that since Claudius deliberately chose to delegate his authority, he was not in fact gullible. These men had been given great responsibility, but in fact they reported directly to Claudius, who had the final word (Momigliano *Claudius* 43). Obviously, however, their opinions carried great weight with him. There may be a fine line between advice and manipulation, and there may be some truth in both emphases.

Excessive influence from his wives also is an ubiquitous accusation against Claudius. Some hold that they did not influence any major political policies (Momigliano *Claudius* 76). However, the women Claudius married carried court factions with them, and in their own way they wielded a certain influence. A case in point is Messalina's success in keeping her rival party (Gaius' sisters, Seneca, and others) out of power until her death (Tacitus *Ann.* 11.13). The fortunes of those connected with this party changed immediately when Agrippina gained political leverage by her marriage to Claudius. She was also successful in having sympathetic people appointed to important posts--Burrus as commander of the praetorian guard is the prime example (Tacitus *Ann.* 12.41).

Whether to the exaggerated extent which our sources propose or not, Claudius was influenced, if not manipulated, by those people close to him. By his own choice he allowed them a certain authority to act on his behalf. But by delegating power, Claudius made himself vulnerable to blame for any poor procedure followed or injustices committed under his umbrella of authority.

Closely connected to this delegation of authority which Claudius practiced is the common accusation that Claudius did not know what was transpiring--and he should have. There are too many examples to list where the sources blame Claudius for not knowing crucial pieces of information. The most famous, no doubt, is his ignorance of Messalina's affairs and her mock-marriage to Silius (Tacitus *Ann.* 11.13; Dio 60.18.2-4; see below 63, 82 *passim*). For this ignorance, Claudius was universally believed a fool, and there is little to either mitigate or discount it. Suetonius gives one example of an execution carried out in the provinces, though

not ordered and without Claudius' knowledge. Claudius chose to ignore the lack of procedure on the counsel of his freedmen, believing the punishment deserved (Suetonius *Claud.* 29). This illustrates the extent to which he allowed people under his authority to act without consulting him, and even when they went beyond their powers, to ignore it.

Even though Claudius allowed those he trusted, both freedmen and wives, great freedoms under him, one would not expect this to extend to arbitrarily and flippantly killing people. How is it that with Claudius' attention to the law, his desire to follow precedent, and his reputation for looking into details of cases, that overwhelming lists of people who were untried yet executed, or tried but unjustly executed, remain to us? Rather than discount the lists as fabrications by vindictive senatorial writers, it seems that one common factor may be observed which gives another clue to Claudius' mindset. All these cases contained some threat to the emperor's life and rule, whether merely perceived or well-founded.

Suetonius records that from the time Claudius was proclaimed emperor by the praetorian guard, everybody without exception was searched before coming into his presence (Suetonius *Claud.* 35.6.7; also Dio 60.3.2-5). Although Claudius saw fit to pronounce a general amnesty for those who had opposed his emperorship in the beginning, he ordered the deaths of Chaerea and his accomplices for assassinating Gaius, seeing in their action a threat also to himself (Dio 60.3.4; Suetonius *Claud.* 11; Josephus *AJ* 19.4.5). Claudius was often depicted as fearful for his life, and his freedmen and wives reportedly played on his fears when they wanted something accomplished (Dio 60.14.1,2).

He was afflicted by cowardice, which often so overpowered him that he could not reason out anything as he ought. . . . They seized upon this failing of his, too, to accomplish many of their purposes, for by frightening him they would use him fully for their own ends (Dio 60.2.6,7).

I see no reason to discount this characterization of Claudius. Throughout his life close relatives had been executed; he claimed that it was only by playing stupid he had personally survived the previous reigns (Suetonius *Claud.* 38). Dio states that "from a child he had been reared a constant prey to illness and great terror. . ." (Dio 60.2.4). Very few are able to survive threatening experiences without some effect to the psyche, and this reaction only seems human. Whether it was fitting in an emperor or not is another question, but clearly Claudius had learned

to put his own survival above all other considerations.

Consequently, threats to his life and throne (both now inextricably dependent on each other [Josephus *B/* 2.11.2]) induced Claudius in certain situations to depart from his intention to observe proper procedures (see McAlindon 119). If Claudius was convinced a threat was real, executions followed. There are some instances where threats were shrugged off--when the threat was viewed as completely baseless (examples: Dio 60.27.5; 60.29.4). But certain of Claudius' policies were seen as so grievous by some senators that they were induced to connive against his life (see below 62,3; 82 *passim*). Many of the executions he ordered are presented as the result of vindictive manipulations by freedmen and/or wives. A closer look betrays the underlying motive behind many of these executions as Claudius' survival. I will briefly glance at a few particular cases.

Appius Silanus, step-father of Messalina, is one of those listed in Suetonius as a senator and family member condemned without a trial. The sources vary slightly in telling his story. Suetonius reports that Narcissus, Claudius' trusted freedman advisor, recounted a dream he had had, in which Silanus assaulted the emperor; Messalina then reported that she had had the same dream. Dio says only that Messalina "exaggerated [Narcissus' dreams'] significance" (Suetonius *Claud.* 37; Dio 60.14.4). Claudius sent Appius to death "suddenly," probably that very day, and the next morning he publicly thanked Narcissus in the senate for guarding him day and night (AD42) (Suetonius *Claud.* 37).

All the negatives generally reputed to Claudius are apparent in this story: manipulation both by a freedman and a wife; Claudius not knowing what was really going on; and a seemingly arbitrary and undeserved judgment which ended in an execution of a senator and a relative. The most telling negative, however, may be the picture of Claudius preoccupied with self-preservation to an exaggerated degree.

A prosopographic analysis of the Junii Silanii shows a history of family opposition to the principate; the charge of *maiestas* had been brought up against Appius Silanus himself before, in AD 32 (Tacitus *Ann.* 14.46; McAlindon 118, 120-23). Furthermore, Tacitus mentions that while Messalina wielded power, she and her mother, the wife of Appius Silanus, had been at odds (Tacitus *Ann.* 11.37). Although the specifics of their disagreement are not given, she may have perceived a threat to her own position and therefore been willing to pursue his

death. In short, the threat may have been well-founded.

I am inclined to believe in the truth of all aspects of the tale as told:

Narcissus and Messalina may have seen it in their own interest to dispense with Appius Silanus; Claudius may have uneasily been aware of a potential threat to his power. Narcissus and Messalina, using psychologically effective methods, presented the case to Claudius, having in the meantime sent summons to Appius Silanus as if from the emperor. When he was reported breaking into the palace as the dream was being recounted, Claudius responded in fear, "suddenly" killing him and neglecting the formalities of a trial in the interest of his own survival (Dio 60.14.4; 15.1).

Dio interprets this occasion as a turning point in people's perceptions of Claudius, and it was soon after this that a plot was formed against him. This plot was led by Annius Vinicianus and Furius Camillus Scribonianus, both men who had been suggested as possible emperor during the days of uncertainty after Gaius' death. Both ended up committing suicide at the discovery of the plot, and Claudius sought out many co-conspirators and put them to death, one being a praetor. In seeking to root out all the conspirators, Claudius broke with some of his earlier promises: he allowed slaves and freedmen to testify against their masters, and he had some knights and senators tortured (Suetonius *Claud.* 25; Dio 60.15.4-6; see Dio 60.28.1,2). Even so, and though many died as a result, all were accorded due process of law. This is the occasion quoted above where Claudius publicly read out the charges in the senate and sat in on the trials (Dio 60.16; see above 50). Claudius is infamous for having given this Homeric watchword to the soldiers at this time, 'Let him be first to attack, but be sure that you counter him boldly' (*Claud.* 42; Dio 60.16.7), another reflection of his preoccupation with the importance of survival (and who can blame him?). In this instance, however, he observed legal procedure.

The case of Lucius Silanus, also from the Junii Silanii family, is given special attention in the *Apocolocyntosis* (8.2-3; 10.15; 11.20; 13.5) and is mentioned as well in all three of our major sources (Tacitus *Ann.* 12.3-5,8,9; Dio 60.31.7,8; Suetonius *Claud.* 29). Several causes for his death are noted in the sources. By engaging Lucius Silanus to Octavia, (as with Appius Silanus and Messalina's mother) Claudius had planned to co-opt this powerful and competitive family into his own power structure.

However, when Claudius chose to marry Agrippina, a whole political rearrangement took place in the palace. It makes perfect sense that Agrippina would have wanted to propose her son Nero as a spouse for Octavia, as this would solidify her own family's power around the throne. She machinated Lucius Silanus' downfall because she not only saw him as a potential threat to the purpose of making her son Nero emperor, but she convinced Claudius of a threat to Julio-Claudian power as well.

Besides the historical threat of the Junii Silanii, Lucius' close relationship with his sister could easily have been interpreted as a political danger. The Julio-Claudians themselves were well aware of the need to keep power in the family. For instance, Tacitus records an argument for Claudius' marriage to Agrippina, his neice, proposed by the freedman Pallas: "the emperor [ought to] ally himself with a noble race and unite two branches of the Claudian house. . ." (Tacitus *Ann.* 12.2). Soon afterward, by the same logic, Nero and Octavia were united in marriage, though related by blood as well as adoptive sister and brother.

Claudius' tendency to react in fear when his own security was at stake was doubtless behind Lucius' Silanus' death. Suetonius states that Lucius Silanus received orders to commit suicide (*Claud.* 29); Tacitus makes it appear that Claudius had not formally condemned him, but rather that without warning he broke the engagement and took away the honorable title of praeter, which did forebode more serious things to come. Tacitus proposes two possible motives for Lucius' suicide taking place on the day of Claudius' marriage: "that day finally terminated his hopes of life--or [more dubiously] he chose it to increase ill-feeling" (Tacitus *Ann.* 12.8). Dio merely states that Claudius put him to death because Agrippina had convinced him that there was a plot against his life (Dio 60.31.8). Whatever the reason and method, the ancient writers held Claudius responsible for Lucius' death. Claudius' fear for his own survival was certainly a major factor.

Perhaps the most notorious situation which calls forth criticism of all Claudius' faults is the story of Messalina's downfall. Messalina's dalliances were revealed to Claudius, her husband, only when they had become a threat to the emperor's life (Tacitus *Ann.* 11.28). Suetonius unflatteringly depicts Claudius concerned with one issue when the news was finally broken to him: whether or not he would still be emperor (Suetonius *Claud.* 36). This was not such a foolish preoccupation, for the illicit marriage she had celebrated with G. Silius was,

according to Tacitus, accomplished in order to maintain her own position of power once Silius was "supreme" (Tacitus *Ann.* 11.26). The imperial household interpreted the marriage as a serious political threat to Claudius' power and life (Tacitus *Ann.* 11.28-30). The summary justice which took place was warranted in Claudius' mind because of the threat to his life (see below 82 *passim*).

ASSESSMENT

We can break into Claudius' rationale to some degree by observing his actions and statements. It becomes clear that he greatly respected both antiquarian practices and Roman precedent, but that he had found a flexible loophole which would allow innovations: innovations had been made in antiquity. He believed in natural law and the inadequacy of the human law to dispense complete justice: he attempted to close this gap both by adjusting the laws as well as by interfering in the normal processes of the law on occasion. He reacted in fear to any perceived or real threat to his life, an understandable outcome of his years of fear in the royal family: this moved him on occasion to shortcut the judicial process.

Even if we can provide a rationale for Claudius' behavior and find that he was less arbitrary and foolish than he is made out to be in the extant sources, it is clear that he was considered so by many of his contemporaries, particularly in the senatorial class. Perceptions of Claudius' rule can be measured to some degree by the reactions at and soon after Claudius' funeral. The new emperor Nero made a speech (composed by Seneca) eulogizing the former emperor, a speech which listed Claudius' forebears' glories, his own literary accomplishments, and the lack of military disasters during his reign. All of this, according to Tacitus, was respectfully received. However, when Nero began to speak of Claudius' "foresight and wisdom, nobody could help laughing" (Tacitus *Ann.* 13.3). Clearly, in the minds of these people, his judgment was a weak point.

Soon afterwards Nero made a series of promises which were addressed to the senate, hoping to disassociate himself from the resentment felt towards some of Claudius' practices. Nero pointed out that there was no feud or vindictiveness brought with him, and then "renounced everything that had occasioned recent unpopularity" during Claudius' reign (Tacitus *Ann.* 13.4). The first promise was that he would not take on all kinds of cases himself--referring no doubt to

Claudius' extreme legal activity and tendency toward centralization. He also promised not to hear cases privately, which carried with it the danger that certain people would be able to wield too great an influence--this addresses non-public trials and the resented influence of Claudius' freedmen and wives. Nero further promised that the senate would hold on to its traditional functions--in particular that Italians and provincials could also access its tribunals. Nero also promised to avoid favoritism, bribery, and mixing of personal and state affairs (Tacitus *Ann.* 13.4). These grievances for the most part revolve around Claudius' perceived arbitrary activity, particularly in the courts.

In Suetonius' list of the good things Nero accomplished, a careful contrast to Claudius can be discerned. Nero reserved passing judgment until the next day, and he made sure that relevant charges were carefully heard from both sides. He consulted with advisors privately, having each one write out an opinion so as not to influence each other (Suetonius *Nero* 15). Also, Nero saw to it that lawyers' fees were fixed at a reasonable rate, treasury suits were heard in the forum, and jury appeals were directed to the senate (Suetonius *Nero* 17).

Finally, one of the first changes the senate made was to overrule Claudius' concession to advocates. No more could they receive fees or gifts for services rendered. Presumably, Nero made his own adjustment later: "reasonable" fees must have been considerably lower than those set by Claudius (Suetonius *Nero* 17).³²

Seneca hit a tender nerve when he placed the *Apocolocyntosis* in a legal setting. He expressed the gripes of many in the little satire, including his own.

CHAPTER VII

THE PURPOSE AND MESSAGE OF THE *APOCOCYNTOSIS*

Amphitryon: Is the report true that in the underworld justice, though tardy, is meted out, and that guilty souls who have forgot their crimes suffer due punishment? Who is that lord of truth, that arbiter of justice?

Theseus: Not one inquisitor alone sits on the high judgment-seat and allots his tardy sentence to trembling culprits. In yonder court they pass to Cretan Minos' presence, in that to Rhadamanthus', here the father of Thetis' spouse gives audience [Aeacus]. What each has done, he suffers; upon its author the crime comes back, and the guilty soul is crushed by its own form of guilt. I have seen bloody chiefs immured in prison; the insolent tyrant's back torn by plebeian hands. He who reigns mildly and, though lord of life, keeps guiltless hands, who mercifully and without bloodshed rules his realm, checking his own spirit, he shall traverse long stretches of happy life and at last gain the skies, or else in bliss reach Elysium's joyful land and sit in judgment there. Abstain from human blood, all ye who rule: with heavier punishment your sins are judged (Seneca *Hercules Furens* 727 - 747).

DIFFERENCES BETWEEN CLAUDIUS AND SENECA

Claudius and Seneca both accepted the difference between justice and law: law was a temporal, changeable, and imperfect attempt toward true justice. Both believed in the importance of bringing human law into as close an accord to natural law as possible. Both believed that a major function of the emperor was dispensing justice to his subjects. Both accepted the process of *cognitio*, which allowed the judge considerable freedom.

Seneca in fact did not reflect an anti-imperial bias. He accepted the dominance of the princeps, emphasizing that the princeps should be bound by humanitarian considerations and natural law. He accepted the principate as a fact of life, a belief he demonstrated by his role as Nero's adviser and policy-maker. *De Clementia* makes explicit a theoretical basis for this belief, and there is little in Seneca's writings or known behavior to make us think he believed otherwise.

So where did the differences between Claudius and Seneca lie? Seneca did betray an anti-Claudian bias of the senatorial class in one lesser point: he despised petty lawyers who made profits arguing cases, while Claudius seemed to favor them. A more crucial difference, however, had to do not so much with theory but rather its practical application. While Seneca agreed that explicit man-made law often missed the truth of universal law, he believed that since the emperor was just a man and therefore not infallible, he should generally respect and observe man-made law himself, always leaning to the merciful side. Although Claudius tried many times to adjust explicit law to the universal, there were instances where he used his power as emperor to right an obvious wrong quickly--at least in his own eyes--without giving a trial even by the flexible procedures of the *cognitio* process. He no doubt felt justified, believing himself to be acting in the interests of obvious principles of justice. These breaches of procedure were sometimes further exaggerated by anger or fear, as he hoped to avoid being a victim himself.

Besides these practical differences, there was a major theoretical disagreement between Claudius and Seneca. Seneca did not argue with the emperor's right, based on the *cognitio* process, to set judgments. However, he strongly believed that the emperor could dispense truest justice by assigning the most merciful punishments allowable. Claudius, on the other hand, believed that if a crime was raw enough and evil enough, it might deserve a punishment even stronger than that prescribed by law. Herein lies part of the underlying conflict between the two which makes itself apparent in the *Apocolocyntosis*.

PARALLELS TO THE *APOCOLOCYNTOSIS*

Seneca certainly wrote to make a point to Nero. The message of the *Apocolocyntosis* parallels closely that of *De Clementia*, which was an entirely serious treatise of advice to the princeps on how best to rule. Both works contain blatant flattery of Nero, though the flattery is directed toward different qualities. *De Clementia*'s flattery is concerned with morality and mercy, qualities which Nero's subjects would hope for from him, and this reflects the broader scope of the intended audience. The flattery in the *Apocolocyntosis* is tailored to Nero's personal weaknesses. The comparison to Apollo in appearance, voice, and song is just a glimmer of the type of adulation to which Nero later was addicted, and

illustrates how well Seneca knew his pupil (*Apoc.* 4.1; Tacitus *Ann.* 13.3; Suetonius *Nero* 22-25).

De Clementia presents the positive argument for the quality of mercy in a ruler in a manner that was politically and publicly appropriate. The *Apocolocyntosis* presents a similar message taking a negative tack, showing all the weaknesses of cruelty in a ruler. In both of these works, Augustus is presented as the positive paradigm, while Claudius is the negative, though the negative is exaggerated in the *Apocolocyntosis* while it is only politely mentioned in the treatise. Again, the difference between the two works is not so much the underlying message as the intended audience. *De Clementia* functioned to explain the new princeps and program to the Romans; the *Apocolocyntosis* on the other hand, was above all directed toward Nero, taking into account his weakness for the performing arts and his own under-the-breath opinions and mockery of Claudius (Tacitus *Ann.* 13.3,4; Suetonius *Nero* 33). Perhaps Seneca hoped that if one message did not reach Nero, the other would.

Another parallel to the *Apocolocyntosis* can be discerned in Nero's first speech to the senate upon his accession, a speech which was written for him by Seneca (Dio 61.3.1). This was directed above all to the senatorial complaints about Claudius' handling of judicial matters. Nero promises not to try all sorts of cases himself; to refrain from hearing cases behind closed doors; and to give back to the senate the right to try people from the senatorial provinces and from Italy (Tacitus *Ann.* 4). These points generally parallel the message in the *Apocolocyntosis* although they are particularly geared toward the concerns of the senate.

The early attempts of Nero to rule suggest that to some degree Seneca's message had experimentally soaked in. At first, Nero claimed not to enjoy signing execution orders, deferred judgments a day for reflection, made attempts to weigh cases with the arguments side by side, consulted with judicial advisors before coming to decision, and sent jury appeals to the senate (Suetonius *Nero* 10, 15, 17).

Taken together, these parallels indicate that the *Apocolocyntosis* is only one attempt in a series to promote judicial moderation in Nero's rule. The point will become more clear when I look at the *Apocolocyntosis* in more detail below.

MENIPPEAN ASPECTS

All the elements which Bakhtin lists in his study of Menippean satire can be demonstrated in the *Apocolocyntosis* (see above 9). I will highlight only a few of them.

Underlying the whole work is an exploration of the question of ultimate justice. Can a powerful person arbitrarily dispense "justice" unjustly and escape retribution? If so, would there be meaning in the universe? The satire holds forth the ideal of and a hope for ultimate justice, if not an assurance of it. The very act of composing the satire is a vote of confidence for meaning in the universe, for it attempts a certain evening of scores.

Another Menippean characteristic is the shifting perspectives. Seneca uses these to great advantage. He begins the work with the claim that he will recount "the things which were done in heaven," but his source of information observes from earth (*Apoc.* 1.1,2). Retaining this vantage point de-mystifies any supposed supernatural associations for the Deified Claudius.

Seneca passes over the observable happenings on earth--everyone is already too familiar with them (*Apoc.* 5.1). When commanded to leave heaven, Claudius passes through earth, following his funeral procession and watching the "mourning" in his undetected state (*Apoc.* 12). It is enroute to the underworld that Claudius experiences his moment of self-recognition and disintegration: he is dead (*Apoc.* 12.2). But Seneca prefers to explore his theme from alternative realms. The third section describes Claudius' experience in the underworld.

Though claiming to ignore "the subsequent proceedings on earth" (*Apoc.* 5.1), the alternative realms are exploited in order to gain a perspective on the earthly arena. It is for Claudius' actions on earth that he is denied access to godhood; it is for his actions on earth that the Roman people rejoice at his death; it is for his actions on earth that he is condemned in the underworld. From all vantage points Claudius stands condemned.

The Saturnalian/carnavalesque element of reversals and inverses is also prominent throughout the *Apocolocyntosis*. The traditional Saturnalian inversion was between the ruler and the ruled: Claudius is compared, when undisputed master in Rome, to a cock on its dunghill. Now he is not even that (*Apoc.* 7.4).

Likewise Seneca has played on the juxtaposition of fool and god, fool and king (*Apoc.* 11.2; 8.3). Claudius was born, but not born; he existed, but did not exist; he dies, but does not die (*Apoc.* 3.1; 4.2; 12.3 Mazzoli 209). The paradoxes, reverses and inversions play nicely into the theme of justice and retribution. That he starts in heaven with high hopes makes his fall into Hades even heavier (see Mazzoli 206, 209). Until Claudius hits bottom the reversals are not complete (*Apoc.* 15.2).

In Bakhtin's analysis, Menippean satire is unbound by historical and factual considerations, and the fantastic element pervades. This is also true of the *Apocolocyntosis*. In the opening section of the work Seneca deals with the problem, as historians do, of where he got his information. His source is an unnamed man, famous for having sworn that he saw Drusilla ascend to heaven after her death (*Apoc.* 1.2; Dio 59.11.4). Since people had mocked him for swearing this oath, he adjures that if he saw anyone slain in the public forum, he would not stand as a witness to the fact. This dubious source supplies Seneca with the marvelous excuse that the whole work is fantastic and flippant, if any should find fault with it.

BASIS IN HISTORICAL FACT

Seneca has thus cleverly denied any historical attachment. Having thereby allowed himself the licence to concoct, exaggerate, and misrepresent, he ridicules Claudius only with allusions to things which have some discernable basis in historical fact. Without doing an exhaustive survey, I will examine enough specifics to underline the point.

First of all, Seneca names 28 victims of Claudius, of whom mention can actually be found for 21 in other historical sources of the period (Bringmann "Forschungsbericht" 898).³³

In the satire, Claudius' route to heaven is made with unequal steps; his hand was steady enough to order executions with a gesture. Both Claudius' dragging foot and shaking hands were well known in antiquity, and these physical defects provide easy targets for the satirist (Suetonius *Claud.* 30; Dio 60.2.1; *Apoc.* 1.2; 5.2,3; 7.1; 12.3).

Seneca makes Claudius' speech defect a minor motif throughout his work as well. From Augustus' letter to Livia and other comments, it appears that it was

sporadic, but perhaps exacerbated when he was excited (Suetonius *Claud.* 4; 30; Dio 60.2.2). Seneca exploits this to present a picture of someone completely incomprehensible. Even the gods cannot understand him (*Apoc.* 5.2,3; 6.2; 7.4; 11.3; 14.2).

Seneca begins his satire with the typical claims historians make to objectivity: "No concession will be made to umbrage taken or favour granted. This is the authentic truth" (*Apoc.* 1.1). He then purposely undermines the historical reliability of his own satire, as well as historians in general by asking, "Who ever demanded sworn referees from a historian?" (*Apoc.* 1.1,2). Claudius had written several historical works, and he naively hopes that his histories might be accepted in heaven (Suetonius *Claud.* 41,42; *Apoc.* 5.4). These, of course, are being mocked as well.

Foolishly pleased when addressed in Greek with a line from Homer, Claudius rejoins with one of his own (*Apoc.* 5.4). Seneca tops that of Claudius, however, with the succeeding line: "There I sacked the city and destroyed the people," making this the most telling of all (*Apoc.* 5.4). Claudius' propensity to quote Greek lines was well known and at times had incurred ridicule; the "destruction of the people" hints at accusations to come (Suetonius *Claud.* 42; Dio 60.16.7,8).

The mention of Claudius' intention to allow many more people in to Roman citizenship has provoked much discussion (*Apoc.* 3.3).³⁴ The satire's portrayal can be demonstrated a gross exaggeration. For one thing, Claudius took away citizenship from those whom he did not believe deserved it (Suetonius *Claud.* 25; Dio 60.17.4,5). Messalina and the freedmen, however, were reported to have sold citizenship cheaply to favored individuals, claiming the authority of the emperor (Dio 60.17.5-7). One extant inscription records Claudius' activity of bestowing citizenship on a certain city (Smallwood *Documents* 407; Trans. Miller *Inscriptions* 32). Furthermore, Claudius' move to include certain provincial citizens into the senate had not been particularly well received (Tacitus *Ann.* 11.24). There is therefore some basis for the comment, but its exaggeration is patent.

Two references to the Saturnalia, as well as the whole depiction of Claudius as inverted Saturnalian king, contribute to the opinion that the work was written for the celebration in AD54 (*Apoc.* 8.2; 12.2; Nauta 84 - 88; see above 7,8). The Saturnalia was a particularly fitting festival for ridiculing Claudius from a historical point of view, for the tag had been pinned on him before. When earlier

in life Claudius had requested state office from Tiberius, he was sent gold pieces and consular regalia; when he asked for the duties as well as the symbols, Tiberius merely said that the gold was to be spent on toys for the Saturnalia (Suetonius *Claud* 5). The implication was, perhaps, that only during the Saturnalia festival where roles were reversed would Claudius be suitable to rule. In another mention, Claudius restored the fifth day of the Saturnalia celebration (Dio 60.25.8). Furthermore, when Claudius sent out an inappropriate messenger, Narcissus his freedman, to address the troops, the cry "Io Saturnalia" was raised (Dio 60.19.3). The associations were there and the joke had a history of its own.

Claudius' vice with dice is made into one of the first punishments assigned to him in the underworld. Dice-playing was also associated with the Saturnalia, for during this holiday the laws against dice-throwing were briefly lifted (Nauta 87). Claudius' love of dice games was notorious, and he had even written a book on the subject (Suetonius *Claud* 5,33,39). In the context of Claudius' seemingly arbitrary dispensation of justice, the satire may be lampooning his unpredictability in giving judgments as well (*Apoc.* 12.3; 14.4; 15.1).

The *Apocolocyntosis* also satirizes Claudius' last moments. It plays off the enema which had been administered shortly before he died; the comic actors, called in to maintain the pretence that Claudius was still alive; and the astrologers, who forecast a propitious hour for Nero's accession (*Apoc.* 4.3; Suetonius *Claud.* 44.5; Tacitus *Ann.* 12.67.8).

The *Apocolocyntosis* makes a big point of placing Claudius' death just after noon, which corresponds to Agrippina's version. The other sources note a variance between this official version and the actual death, which is supposed to have taken place during the night as a result of a poisonous mushroom given to Claudius by Agrippina (*Apoc.* 2; Tacitus *Ann.* 12.67; 13.1; Suetonius *Claud.* 44.5; cf. Dio 60.34.2; Pack 150). That Claudius is accompanied to Olympus by Fever in the *Apocolocyntosis* may be Seneca's attempt to alleviate suspicion that Claudius had died by poison from the hand of Agrippina (*Apoc.* 6; Pack 150). In spite of the explicitly and grotesquely detailed description of Claudius' death, poison is not even hinted (*Apoc.* 4.3). Seneca does manage a way out of the misrepresentation, if such it is, by observing that it is more difficult for clocks than for philosophers to agree (*Apoc.* 2.2) and by couching the deception in a satire, of course, where any statement may be discounted if pressed.

It would be unwise to use the *Apocolocyntosis* as a serious historical source for obtaining facts, given the inherent exaggerations. However, this indicative list argues for the sober meaning behind the satire: the reference points are tangible.

OTHER TARGETS

Although Claudius is the man around whom the mockery revolves, opportunities present themselves for passing fun directed toward other people and institutions. Already we have noted the jibes at historians in general; Seneca also pokes fun at mediocre poets (*Apoc.* 2.3); astrologers (*Apoc.* 3.2), comedians (*Apoc.* 4.2); and philosophers, including the Stoics of his own professed philosophy (*Apoc.* 2.2; 8.1).

One particular dig is aimed at the senate, and worth pursuing here. The section depicting the Council of the Gods is an entertaining spoof on senatorial procedure (*Apoc.* 8-11; see above 37.8). Seneca's portrayal becomes pointed, however, when the senate agrees that Claudius should not be deified. This was the very opposite of what the Roman Senate had decreed, an inversion with a jab (*Apoc.* 11.5,6; see Suetonius *Claud.* 45; Tacitus *Ann.* 12.69; Dio 60.35.2). The god Janus had proposed earlier in the discussion that "anyone who is made, mentioned, or portrayed as a god contrary to this decree of the [godly] senate should be handed over to the goblins and take a thrashing with canes among the raw recruits at the next gladiatorial show" (*Apoc.* 9.3). The comment refers to those men who had, under no compulsion, voluntarily joined the ranks of the gladiators (Eden "Commentary" 111). This makes the bite clear: the Roman senate had wantonly and willingly deified an inappropriate candidate, Claudius (Tacitus *Ann.* 12.68; Suetonius *Claud.* 45; Dio 60.35.2). Their action was as demeaning as joining the ranks of the gladiators under no compulsion.

The gods themselves correspond to senators and none of them except for Augustus receives a flattering portrayal. Jupiter forgets to maintain order. Father Janus is characterized as a "glib" fellow with "simultaneous foresight and hindsight--as far as his own street goes" (*Apoc.* 9.2). The play on the god's classically attributed characteristics is obvious, but his limited perspective can be transferred to the earthly senate. His assignment as "siesta-time consul" mocks the

titles and offices in the senate (see Eden "Commentary" 107,108). Diespiter, another Roman god, is characterized as "consul elect, a small-time moneylender. He used to maintain himself with a livelihood by making a practice of selling citizenship perks" (*Apoc.* 9.4). This unmistakeably projects pettiness on the senators. Hercules, who stands as character reference on behalf of Claudius, is capable only of going back and forth with platitudes, foolishly trying to get support for his foolish candidate, Claudius (*Apoc.* 9.6). The only sane god in the *concilium* is Augustus, and he wins his point.³⁵

While Seneca directs his wit at many targets, there are a few which he noticeably avoids. The two most obvious are, of course, Augustus and Nero. Neither of these men experience inversions in the work: they are presented one-dimensionally and positively. Although some have speculated that Augustus was being subtly mocked, in fact he is the ideal for Nero to emulate (see Bringmann "Forschungsbericht" 900). His accusations toward Claudius are damning, and are upheld (*Apoc.* 10-12). The Golden Age rhetoric describing Nero's reign is straightforward and not subject to double readings (*Apoc.* 4).

Augustus speaks with discernable parallels to the *Res Gestae*, mixed with pithy platitudes (Eden "Commentary" 115), while Nero's section is bland, characterized by repeated words which are sometimes even placed in the same position in the lines (example: *stamina fuso; tempora vitae*) (*Apoc.* 4.1; Eden "Commentary" 76). This is mere characterization and genre artistry. Certainly Seneca's purpose was not perceived by Nero as provocative, a fact witnessed by the close working relationship the two maintained for some years afterward.

It has been speculated that the work indirectly criticized Agrippina because the death of Lucius Silanus, which she allegedly machinated, was given such prominence (Baldwin 44). By handing the blame and responsibility to Claudius, however, Seneca gives her a scapegoat, if any should want to lay the undeserved deaths at her feet and thereby undermine Nero's claim to the throne. Seneca, as we have seen, was initially very loyal to both Agrippina and Nero, and at this early date in the reign there was no breach between mother and son. If anything, the work publically absolves Agrippina from any guilt she might have had in the deaths listed. Furthermore, since Seneca perpetuates her story about the death of Claudius, the argument that the work supports her is that much stronger.

THEORIES ON THE PURPOSE OF THE *APOCOCYNTOSIS*

A surprising number of theories have been advanced on the purpose of the *Apocolocyntosis*. Most agree that a motive of some sort underlies the work.³⁶

There is the theory, to begin with, that the work is merely a "relatively innocuous lampoon circulated among the imperial 'in' crowd" (Ramage et al. 99), or a "court jest designed to flatter the reigning prince (Nero) at the expense of his predecessor" (Martin 65). The point is well taken, as far as it goes, for the work after all is satire and the farcical spirit cannot be ignored (Griffin *Seneca* 131). However, there are many more levels of meaning than this (Coffey *Lustrum* 263; *Roman Satire* 172), as is testified in part by the many theories advanced to explain its purpose. A work as rich as the *Apocolocyntosis* will not bear a simple explanation (see Coffey *Lustrum* 263).

The theory of personal revenge as a motive is often assumed (Scramuzza 9; Knoche 102,3; Griffin *Seneca* 132,33; Currie 94,6). Tacitus notes that Seneca held a certain grudge against Claudius because of his indirect responsibility for the long exile, and the attack, though witty, is also undeniably personal and biting (Tacitus *Ann.* 12.8.3; 13.42.3). In the first half of the satire especially, Seneca chooses the personal idiosyncracies and habits of Claudius as targets for his ridicule. Based on this, and the fact that Seneca did not ridicule any of Claudius' "political or statesmanlike measures," one scholar proposes that Seneca's goal was "destroying a particular man for all time" (Knoche 102,3).

The argument against this view asserts that Seneca, newly in a position of power, would have found it inappropriate to write a work of this nature merely with a purpose of revenge (see Marti 30). Furthermore, although Seneca probably enjoyed writing the work and may have vented his personal emotions to some degree, it is unlikely, because of his Stoic beliefs, that this was his sole motivation (Griffin *Seneca* 132,33; also Coffey *Lustrum* 263). This is further born out by his complete avoidance of any negative mention of Messalina in the work, the woman who had allegedly machinated his own exile behind the scenes (Baldwin 44).

A recent analysis by R. R. Nauta centers on the intended audience and setting of the *Apocolocyntosis* in order to decipher its meaning. According to Nauta, the content of the satire, so drastically anti-Claudian in nature, would not have been suitable fare for a popular or even senatorial audience immediately after Claudius

had been officially deified. Since Nero based his claim to authority on the rightful inheritance of power from Claudius, to publicly mock him so soon would have undermined Nero's power just as he was trying to establish it (Nauta 75). The work therefore is geared to an "in-crowd": to Nero, who was already showing a distinct preference for the writing and performing arts, and his close associates (see *Apoc.* 4.1.22,3; Suetonius *Nero* 10; Nauta 93,4; also Griffin *Seneca* 129; Eden "Introduction" 7,8).

Others have pointed out the Saturnalian motif, and indeed one author finds the carnivalesque features, with its reversals and contradictions, the one unifying thread in the work (Mazzoli 205,6). Nauta argues strongly for placing the work at Saturnalia AD54 (see above 7.8), and sees the carnivalesque jokes at Claudius' expense as an attempt at confirming a solidarity among the in-group (Nauta 95). I find his arguments compelling: suggestions for alternative audiences have not been so persuasive.

For instance, one historian declares the work a "party manifesto," a call to senators to support Nero in their own interest on the grounds that he would restore to them their prerogatives. This author points out that Seneca needed senatorial support to make Nero's claims solid (as well as to maintain his own influence), so Seneca attacked the aspects of Claudius' reign which would have bothered the conservative senators the most (Scramuzza 9). I cannot agree with this theory, however, because the senate is portrayed in such unflattering terms in the *Apocolocyntosis*. Furthermore, beyond a couple of digs at Claudius for delegating his power to freedmen, the senatorial theme in a positive sense is simply not there (*Apoc.* 6.2; 13.4). If Seneca calls attention to the high social status of certain victims (*Apoc.* 11.2), this does not argue for power-sharing with the senate as a political body. Adding the light of the treatise *De Clementia*, where Seneca argues for an enlightened but absolutist concept of rulership (see above 41 *passim*), it seems clear that this theory should be rejected.

Other political explanations have also been offered (Nauta 71; Griffin *Seneca* 129; Eden "Introduction" 10). Some have held that the work is a piece of propaganda to help initiate Nero's reign because it upholds the official explanations about Claudius' death, and thus adds strength to the royal version of the story. At the same time, its villification of Claudius would give support to the idea that he deserved to die, if any lingering doubt remained (see Marti 30).

However, this also assumes a wider audience, and allows the suggestion of poison. If propaganda, it was only directed to a small elite.

Momigliano finds the major theme an "impulse to absolutism," breaking with Augustan tradition. In this analysis, Seneca recognizes the need to emphasise the established traditions of the principate, and for this reason he appeals to Augustus for confirmation of Claudius' indictment (Momigliano *Seneca* 250). The impact of calling up Augustus as Claudius' accuser is indisputable. The complaint against Claudius offered in the *Apocolocyntosis* however, is not of a tendency to absolutism *per se*. True, there are several references to Claudius' freedmen taking matters into their own hands (*Apoc.* 6.2; 13.4), but these are merely insults. Seneca made it clear in *De Clementia* that he supported the absolutism inherent in the principate, within the proper bounds. *De Clementia* also closely parallels the *Apocolocyntosis* in its message. Why would Seneca give Nero two opposing messages? In fact, he did not.

One prosopographic study carefully analyzes each of the victims' political leanings, and concludes that since there is no perceptible common thread uniting them, Seneca could not have written the work (Baldwin 47,8). The doubts about Senecan authorship based on this reading have now been refuted (Horstkotte 113,14; Bringmann "Forschungsbericht" 897). It is accurate to say that these victims cannot be grouped politically, and that people whom Seneca might have been expected to mock (Messalina, for instance) are not mocked. The examination of the individuals whom Seneca names is useful, but political bias is certainly not the unifying characteristic.

The didactic aspect of Menippean satire is noted by a number of authors (Griffin *Seneca* 132; Marti 31; Nauta 91,95; Momigliano *Claudius* 77; Eden "Introduction" 13). This accords with what is known of the Menippean genre, which purports to teach in an entertaining manner, and which Seneca adapted from Varro whom he even mentions in the work (*Apoc.* 8.1). What Seneca might have intended to teach, however, becomes another subject for conjecture.

One author, for instance, argues that there are two serious passages in the satire, and the comedy surrounding them merely provides the "foil" to add weight to the message. The two serious passages are the praise of Nero and the speech by Augustus. The work, therefore, is seen as advice on how best to rule (or not to rule) in a novel form, geared to the youth and inclinations of Nero (Marti 31; also

Eden "Introduction" 13; Nauta 91,95).

Another scholar suggests that Seneca's purpose is to make Nero face the question of whether a person can be worthy of divinity simply because he is emperor (Sorensen 140). Alternatively, yet another believes Seneca to be discrediting the deification of any emperor except, of course, Augustus (Aldo 178,181). The work is equated with the "*sconsacrazione*" (deconsecration) of Claudius, when Nero rescinded the godly honors originally voted to him (Suetonius *Claud.* 45; *Nero* 33; Aldo 178-181; also see Marti 30). In this case the satire was written to teach Nero that deification was inappropriate and that his duties lay in civil rulership (Aldo 182). The assumption behind this particular theory is that deconsecration was Seneca's idea, and that he talked Nero into it.

But Nero certainly could have come up with it on his own. Suetonius lists Claudius as "the first victim of his [Nero's] murderous career," since Nero proved later by unguarded comments to have been aware of Claudius' cause of death (*Nero* 33). Furthermore, Nero's policy of ridiculing Claudius while maintaining a surface link of honor with him begins with Claudius' death (Tacitus *Ann* 13.3). I see no reason to read this as a major theme of the *Apocolocyntosis*, other than to agree that the practice of deifying emperors is one of the many things mocked in the work (*Apoc.* 8,9; see Eden "Introduction" 9).

While arbitrary administration of justice as a theme has been mentioned by a number of theorists in passing (Nauta 75, Griffin *Seneca* 130), Klaus Bringmann brings this focus to the fore. He holds that the *Apocolocyntosis* above all, is a satire on Claudius the judge. This conclusion seems to me the most persuasive. There are a number of points, however, where we do have variant readings. Specifically, Bringmann holds that Seneca's complaint is with the misuse of judicial power, in particular "judicial murder," which he defines as murder using the court ("Forschungsbericht" 897,8). I will differ with the theory of judicial murder below.

THE ACCUSATION OF THE SATIRE

The thematic legal and formal language scattered through the *Apocolocyntosis* is the key to understanding the main point of the satire. After the characterization of Claudius as a general fool and the flattery of Nero, this

language predominates, culminating in the last two chapters of the work.

Appendix B is a list of terms associated with the legal system and references to justice in the *Apocolocyntosis*. Lauria has also recently compiled legal phrases in other works and documents from antiquity and compared them to Seneca's language in the *Apocolocyntosis*. The language and structure of sentences are strikingly similar. Lauria concludes only that Seneca showed excellent overall judicial knowledge (Lauria 159-60), but his findings substantiate my argument, that the legal theme is predominant in the work. The settings, both the *concilium deorum* and then the court of Aeacus, argue for such an emphasis as well.

But these aspects only set the atmosphere for the satire. There is nothing subtle about how Seneca depicts Claudius: a foolish and ineffective fiddler with the controls of the court system. Seneca calls to attention many of Claudius' judicial habits frequently cited by our other sources: hyperactivity, lengthened court sessions, disorder in court, lack of deliberation and hasty decisions, novel penalties, favoritism toward lawyers, arbitrary and personal administration of justice, and notably his practice (in certain circumstances) of hearing only one side of the case, *and sometimes neither*. In addition, Seneca accuses Claudius of cruelty. This is related to the legal theme, for much of his cruelty is made apparent through harsh judicial sentences, and is heavily weighted in the treatment. Appendix C below provides a list of the specific accusations leveled at Claudius relating to his administration of justice in the *Apocolocyntosis* and corresponding references to the same traits in other sources.

Nero is held up in contrast to the recent wrongs of the reign of Claudius. In addition to qualifying attributes such as good looks and musical talent, Nero also promises to "break the silence of the laws" (*Apoc.* 4.1). This statement implies that Claudius had irresponsibly taken the law into his own hands and that the laws themselves had remained dormant during his reign.

These points argue strongly that the *Apocolocyntosis* is a satire on Claudius as judge. I would disagree with Bringmann, however, who terms the chief accusation against Claudius "judicial murder," or a misuse of judicial authority which resulted in his victims' loss of due process of law ("Forschungsbericht" 897,8). This is only part of the accusation: the more weighty one is murder, plain and simple.

At this point it will be helpful to look at the victims of Claudius mentioned by

name in the *Apocolocyntosis* to see if they share any common traits. One scholar has looked for similar political leanings among these people and found none (Baldwin 48). Guilt or innocence is no consideration, either. The common element among all the named victims, as far as we can trace them in other sources, is that they died without the benefit of a trial. Appendix D below provides a chart detailing the causes of death for each victim named in the *Apocolocyntosis*, drawn from other sources.

Seneca groups the victims in the *Apocolocyntosis*. The first group is mentioned by Augustus himself, which adds weight to the accusations. All those named in this group are related to Claudius by marriage if not by blood. Coincidentally, all of these people, excepting Messalina, Crassus, and Scribonia, are listed together by Suetonius as family members executed by Claudius (*Claud.* 29). Augustus asks Claudius the rhetorical question, "Tell me, deified, Claudius, why did you convict any of these men and women, whom you killed, before you could examine the case, before you could hear the evidence?" (*Apoc.* 10.4).

Licinius Crassus Frugi and his wife Scribonia were parents of Claudius' son-in-law Gnaeus Pompeius Magnus (*Apoc.* 11.2, 13.5). Although the details of the parents' deaths are unknown, Magnus was caught in bed with a favorite boyfriend and stabbed to death (Suetonius *Claud.* 29). This is the most detailed reference to his death. Dio classes Magnus with Asiaticus (who did receive a trial) in a brief comment, saying that Claudius put him to death on false charges brought by Messalina (Dio 60.29.6a). Tacitus merely mentions that Claudius had put him to death. Clearly Claudius did not wield the sword. This implies therefore an order by him. The sudden and unexpected murder in bed, hardly a judicial sentence, confirms the lack of any trial, and proves that the charges were private accusations upon which Claudius based his decision. Dio says that Messalina opposed Magnus because of his family. The comment Seneca throws in that Crassus (his father) was "truly such a fool that he could even have been king," and that he was as like Claudius "as two eggs in a basket," may refer to an actual bid for power--or at least Claudius' belief that Crassus might be a threat to his throne and life (*Apoc.* 11.2.4; Eden "Commentary" 124).

Appius Silanus (*Apoc.* 11.5, 13.5) was Messalina's mother's husband, and so Claudius' father-in-law. In his case, reading the various accounts together makes one thing clear: he was killed suddenly. Suetonius says flatly that he was killed

"on unsupported charges and without the right to plead in self-defence" (Suetonius *Claud.* 29). The very next day Claudius was found in the senate praising Narcissus his freedman for his constant watchfulness on his behalf. The implication is that Appius was already disposed of, for Claudius certainly was not asking the senate to pass judgment on him (Suetonius *Claud.* 37; see above 61.2).

Lucius Silanus, who was betrothed to Claudius' daughter, receives special sympathy in the *Apocolocyntosis* (8.2,3;10.4; 11.5; 13.5). Tacitus' description, which is the most detailed, depicts Silanus having his privileges stripped from him one by one with no forewarning or explanation, and makes it appear that he chose to commit suicide, although this detail is not made absolutely clear. Suetonius, however, says flatly that L. Silanus received orders from Claudius to commit suicide; Dio says that Claudius put him to death (Suetonius *Claud.* 29; Dio 60.31.8). That he could readily have been suspect in the eyes of Claudius because of his family traditions has been established (see above 62,3).

One of the Julias mentioned in the *Apocolocyntosis* was daughter of Drusus, son of Tiberius (Tacitus *Ann.* 13.32.5); the other was Julia Livilla, sister of Agrippina and daughter of Germanicus, the very Julia with whom Seneca was alleged to have had an affair (Dio 60.8.5). Both are presented in other sources as victims of Messalina's jealousy and machinations, and both are mentioned by Suetonius as having been "executed . . . on unsupported charges and without the right to plead in self-defence" (Suetonius *Claud.* 29). In fact Julia Livilla was banished, but she died soon after under highly suspicious circumstances (Tacitus *Ann.* 14.63; Dio 60.8.5; 27.4).

It may be that in the case of family members Claudius thought himself exercising the ancient right of the *paterfamilias* to judge family members. But if this is so, Augustus' example remains to condemn him. Augustus in the *Apocolocyntosis* takes special issue with the cruelty to related members of the family (*Apoc.* 10.3-11.5). Augustus had banished his daughter and grand-daughter, both Julias, for indecent behavior and for a possible plot against the throne, but neither they nor their accomplices were executed (Suetonius *Aug.* 64.5; Dio 55.10; Seneca *De Clem.* 1.10.3).

The father's *vitae necisque potestas*, "power of life and death," over his family, which seems to have been allowed by the Twelve Tables, seems also to have had certain limitations attached. A father could not kill his children except *ex*

iusta causa "from a just cause." There is some basis to believe that if a father contemplated such action, to protect himself from prosecution he would call a group of relatives and friends to help confirm or reject his "just cause" (Watson 42-44). In short, even in early Republican days the power was not something to be used flippantly, hurriedly, or arbitrarily: a process of investigation was implied. Even if Claudius had theoretically claimed a power of life and death based on his role as *Pater Patriae*, an arbitrary use of this power would not have been proper.

Levick observes that it was family members or those involved in family problems, such as in the case of Messalina and her accomplices, that were killed by direct order of Claudius. She suggests that the deep embarrassment of a family scandal, which Tacitus specifically mentions, is the reason that Claudius did not make that situation public (Tacitus *Ann.* 11.35; Levick 119).

The second group of people are introduced in the underworld. When Claudius arrives there, many people come to greet him, rejoicing that he has come. When he wonders how they all got here, the answer is given: "What are you talking about, you merciless man? You ask how? Who else but you sent us here, you murderer of all your friends?" (*Apoc.* 13.6).

The first group in Hades can be associated with Messalina and Silius' bid for emperorship (see above 63). Not all the mentioned names are traceable by other ancient sources, but those that are known can be connected with Messalina's downfall. Gaius Silius, Messalina's lover, and Juncus, Sextus Traulus, Trogus and Vettius Valens are all identifiable in Tacitus' *Annals* 11.35-7 as implicated in the conspiracy. The trio Marcus Helvius, Cotta, and Fabius are not identifiable from other sources but may be assumed among the "distinguished knights" who "showed courage" in the face of execution (Tacitus *Ann.* 11.35). Mnestor the ballet dancer, one of Messalina's favorites, also was included here for his complicity.

Bringmann states that it is unfair to accuse Claudius of judicial murder in this situation, for several reasons: the conspirators were caught in the act, were obviously guilty, and some of them pleaded guilty ("Forschungsbericht" 898). In fact, Claudius did not commit judicial murder, for as Bringmann suggests, there was no trial at all.

A re-reading of Tacitus shows that the conspirators were not rounded up directly from the damning party. By the time Claudius arrived in the city, that gathering had disintegrated and people had gone their separate ways. Members of

the Praetorian Guard hunted them down "in the streets and in hiding places" (Tacitus *Ann.* 11.32). How did they know who to take? I expect that Narcissus had already put their names on a list, for he had one ready from which he read to Claudius Messalina's crimes on the spur of the moment (Tacitus *Ann.* 11.34). Narcissus had asked that Claudius transfer the command of the Praetorian Guard to him for one day, because Claudius could not be sure of the loyalty of the Guard commander (Tacitus *Ann.* 11.33). Tacitus does not specify whether or not Claudius actually granted this power to him, but from the following action it appears that he did. Tacitus says that Narcissus "took charge" of the situation, showing Claudius the house of Silius with evidence against him in it, and then accompanying him to the Guard camp for protection (Tacitus *Ann.* 11.35). Here the accused parties which had been rounded up were brought to a platform amidst the shouts from the Praetorian Guard that "the offenders be named and punished." Whether they admitted guilt or not, the order was given that they be executed (Tacitus *Ann.* 11.35). Seneca says in the *Apocolocyntosis* that Narcissus ordered these executions (*Apoc.* 13.4): in Tacitus the construction is passive and does not specify who was doing the ordering. Claudius was certainly there giving his tacit approval, for Mnestor tore his clothes and dramatically addressed a plea to Claudius that his life be spared, on the grounds that he had participated in the treasonous activities by compulsion. Although Claudius was inclined to have mercy on him, his freedmen persuaded him that after so many prominent people had been executed, it would be wrong to save the life of a slave (Tacitus *Ann.* 11.36). Although Bringmann holds that these men were obviously guilty, it is also true that a couple of men who had been rounded up with the rest were let off (Tacitus *Ann.* 11.36). All told, this was "ad hoc treatment," and certainly cannot be considered a trial (Levick 120). It almost made the *maiestas* trials look good.

Tacitus says that Narcissus' hope in revealing Messalina's sin was that Claudius would condemn her without a trial (Tacitus *Ann.* 11.28,37,38). Messalina enlisted Vibidia, the senior Vestal priestess, to argue on her behalf that she "should not be executed unheard" (Tacitus *Ann.* 11.34). Although Narcissus promised a hearing, when he began to see that Claudius had intentions of following through with this, he gave the order that she be executed before Claudius had heard her plead her case (Tacitus *Ann.* 11.37).

If indeed Claudius had passed the Praetorian command to Narcissus for the

day, the soldiers who obeyed the command to kill Messalina had every reason to believe that Claudius had approved the order. The hopes Messalina had held for a hearing were hopes for special treatment, in contrast to the treatment of the others (Tacitus *Ann.* 11.34). When Claudius heard the news of her death, he "did not inquire" into the details (Tacitus *Ann.* 11.38). Dio says that Claudius ordered her killed: the accounts approximately come together if we simply accept that Claudius allowed her to be slain--which in effect he did by granting Narcissus the authority by which he was credibly able to give the order and have it accomplished (Dio 60.31.5).

It remains an important point for this analysis that Seneca's complaint was not that they did not deserve to die--rather that first they deserved to be heard according to court procedure. This "justice" was hurried, anti-procedural, and is the best example of Seneca's major complaint against Claudius, namely that he short-cut the justice system.

The other groups of victims listed in the *Apocolocyntosis*, as far as they can be traced in other sources, were killed without trials by the order of individuals using the umbrella of Claudius' authority. Of the group of freedmen, only Polybius' death is recorded elsewhere: he was falsely accused by Messalina and put to death (Dio 60.31.2). No trial is mentioned. Of the Praetorian Prefects, the death of Justus Catonius was also attributed to her: he was "put out of the way" before he could report to Claudius Messalina's wrong-doing (Dio 60.18.3). Of the counsellors, Saturninus Lusius and Cornelius Lupus were considered victims of Publius Suillius Rufus, who had held great power under Claudius (Tacitus *Ann.* 11.5). He was later accused, "in a word, of all the brutalities of Claudius," and in his defense he attempted to blame first Claudius and then Messalina for the actions he had taken under their authority (Tacitus *Ann.* 13.42,3). Significantly, Nero made a point during this trial of the fact that there were no records of orders for their deaths, and by this he absolved Claudius from blame (Tacitus *Ann.* 13.43). This further indicates that these deaths were anti-procedural.

If Claudius did not personally order all these executions, Messalina's being a classic case in point, Seneca yet held him completely responsible. It was under Claudius' authority that these executions had taken place. In the satire Seneca makes Augustus say to Claudius, not to Narcissus, "You killed Messalina. . . . 'I don't know,' you say? May the gods curse you: the fact that you didn't know is far more

disgraceful than the fact that you killed" (11.1). His ignorance betrayed poor management of a system that tolerated abuse.

The *Apocolocyntosis* undermines its own historicity at the outset and does not therefore purport to offer an exhaustive list. Seneca covers anyone he may have missed by the phrases, "the others whose number cannot be calculated," and "the others, 'as many as grains of sand and specks of dust'" (*Apoc.* 11.5; 14.1). But the point that all the named victims have in common, as far as they can be traced in the sources, is that they were killed without a trial.³⁷

There are two sets of formal charges against Claudius in the *Apocolocyntosis*. The first is Augustus' proposal which was accepted by the godly senate:

Whereas the deified Claudius killed his father-in-law Appius Silanus, his two sons-in-law Pompeius Magnus and Lucius Silanus, his daughter's father-in-law Crassus Frugi, a man as like himself as two eggs in a basket, Scribonia his daughter's mother-in-law, his wife Messalina and the others whose number cannot be calculated, my proposal is that he be severely punished and not given exemption from due process of law, and that he be deported as soon as possible and leave heaven within thirty days and Olympus within three (*Apoc.* 11.5,6).

The second formal accusation takes place in Hades and is brought before the judge Aeacus:

Killed: senators, thirty-five; Roman knights, three hundred and twenty-one; the others, 'as many as grains of sand and specks of dust' (*Apoc.* 14.1).

Neither of these charges leveled against Claudius mention his judicial involvement. The accusations go beyond his caricature as a judge: he is accused of murder. Note in particular Augustus' recommendation that Claudius "not be allowed exemption from due process of law." This is a double, indeed, a triple, entendre. On the surface, it recognizes that Claudius as emperor had been exempt from certain (or all) laws, and by virtue of his special position on earth, Claudius had hopes of becoming a god. Instead he is rejected by the heavenly senate and forced into a trial in Hades, which place he had hoped to avoid altogether. This requirement that he go through the process of law is itself in apposition to the fact that in life he, the man noted above all for his activity as judge and advocate of the legal system, had allowed certain people exemption from due process of law. Those named in the *Apocolocyntosis* are the case in point, but in a negative, not positive

sense. This second level of accusation is the major complaint of the satire. The third level is the poetic justice Claudius is now to receive. The punishment of having to go through due process will fit the crime, in an inverted sense. These three levels all fit the carnivalesque pattern of inversions and better yet, double inversions.

A double entendre may also be observed in Pedo Pompeius' words, "Let's go to court. I will show you the magistrates' benches here" (*Apoc.* 13.6). This comment may be offered as a contrast to Claudius' years of sitting as judge: no more will he pass out judgments, despite the barrister's dirge (*Apoc.* 12.3). But it may also be construed as emphasising that he would *not* be allowed exemption from justice just because of his former position as judge.

Ironically, though Claudius had been the one to encourage the practice of law, he cannot find a lawyer to represent him. When someone finally volunteers, he, like Claudius, is not gifted with speech. The prosecution delivers its rhetoric. When the defence should begin its reply, Aeacus, "the essence of justice," does not allow him, but "condemned Claudius with only one side of the case heard, quoting, 'Shouldst thou suffer what thou wroughtst, justice would be done direct'" (*Apoc.* 14.2). Here is the double inversion. Claudius is not to be exempted from due process of law, for this is the court of ultimate justice. But true justice is dispensed by *not* allowing Claudius to plead his side of the case. Aeacus rules on Claudius in the manner of Claudius, by quoting Homer in Greek.

This "unprecedented ruling" is greeted with astonishment by all the observers, who claim that "this had never been done before" (*Apoc.* 14.3). This statement may also be taken two ways: on the surface, procedure called for both sides to present an argument. More cynically, justice had not been done before. The next sentence goes with the surface meaning: "Claudius thought it unfair rather than unprecedented" (14.3), and implies, besides referring to Claudius' habit of hearing only one side of the case, that Claudius was so far from understanding true justice that when the most just of judges decides his case, he thinks it unjust.

What might have been considered due process in an earthly court is irrelevant in the court of Aeacus, "the essence of justice" (*Apoc.* 14.2). Only the gods are fit to break into established procedure and set things straight, meting out eternal and true justice. The inversion which takes place between the realms of

Hades and earth. (justice here does not need legal procedure), once again is a mark of the genre.

Although Claudius' indictments are for murder, not exclusively judicial murder, his cruelty is also frequently called to task in the *Apocolocyntosis*. This is the other side of the accusation. The disproportionate number of deaths under his regime, trial or no trial, falls into this category. If Claudius was a cruel murderer in the cases of the named victims, he had also brought down many others through the proper processes. Now the disproportionate number and the harshness of the punishments cause Seneca's objections. The "numberless" victims fall into this category. For that matter, if members of Claudius' own extended family had been involved in crimes, could not he have followed the paradigmatic Augustus and merely exiled them? Peto Pompeius says, "You merciless man . . . who else but you sent us here, you murderer of all your friends" (*Apoc.* 13.6).

Hercules is a perfect god to be linked with Claudius because he lends himself to the cruelty theme. Of course, he fits with the deification theme as well, for he is only one of a few "historical" men in mythology who actually became a god (note his success and Claudius' failure, at least in the satire). But besides this, Hercules was famous for having unknowingly and cruelly slain his own wife and children (Seneca *Hercules Furens* 987-1200).

Some consider the satire itself cruel. The humor is crude, vicious, pointed, even vindictive, if we allow what the other ancient writers allowed, that Seneca held a grudge against Claudius. But in its way, it is moderate. The victims of the satire are already dead and gone to their own judgments. This is fantasy. No names of people currently alive are mentioned other than Nero, and he is treated positively (*Apoc.* 4; Eden "Introduction" 7). Furthermore, by comparison with the cruelty of Claudius, as alleged in the work, its vindictiveness is mild. Nobody dies for this satire. In fact, a humanitarian ideal underlies the work: dispense a just mercy, not cruelty (Momigliano *Claudius* 77; Currie 96). There are also victims in the work, most notably Messalina, whom Seneca might rather have been expected to attack while he was attacking (Baldwin 43.4). If Seneca was tempted to do this, he subordinated this urge to his overriding goals.³⁸

The resolution of the *Apocolocyntosis* is a reversal in its own right. The satire metes out true and universal justice to the "Saturnalian" king. Although the work is Saturnalian in spirit, it is essentially an anti-Saturnalian work. The

Saturnalia is described as a mistaken order, not to be desired. Saturnalia is good when it is over. There is a collective relief at the restoration of a right rule (Nauta 94).

On another occasion, Seneca expressed disgust not only with the celebration in general, but also he obliquely compared Nero's later rule (as well) to a Saturnalian inversion. In the meantime, however, the *Apocolocyntosis* as a work of art made a suitable Saturnalian gift to the emperor, for whom Seneca maintained high hopes (Seneca *Ep.* 18.1.4; Nauta 80,83).

CONCLUSION

The major purpose of the *Apocolocyntosis* was to teach Nero by negative example, in a winning way, that he should observe proper legal procedure in court in order to dispense a true justice. In Seneca's view, Roman law corresponded with natural law in its basic requirements for a proper trial. The negative example he used was none other than Nero's predecessor, Claudius, and the *Apocolocyntosis* effected its goals by satirizing Claudius the Judge. Many of Claudius' abuses of the legal system and his power as judge were highlighted in the work. His greatest abuse, however, was by-passing the legal system, which led to injustice. Furthermore, Seneca hoped to teach Nero the importance of showing mercy.

The universal theme underlying the work is an exploration of eternal justice. That there is a standard of true justice is assumed. The problem is to arrive at justice on earth, which is very difficult. This is observed through various perspectives: "It is not so in heaven," says Augustus--that is, in heaven they know both sides before they pass judgment (*Apoc.* 10.4). People are not declared guilty without having the facts considered. In Hades, on the other hand, Claudius is condemned without having had the facts heard. What looks like a breach is in fact perfectly procedural in Hades, where no mistakes are made. The facts have actually been considered in the light of an ultimate standard of justice, and earthly wrongs have been righted. The Saturnalian King ends as a legal investigator for an ex-slave under the most cruel of emperors, Gaius. The Saturnalian work ends as did the Saturnalia every year: rulers are still rulers, and slaves are still slaves. The work is hopeful. "Justice" rules.

ENDNOTES

1. See Sorenson p. 136 for doubts still expressed.

2. Mazzoli explores Saturnalian inversions in the work, but he refrains from naming the occasion as the Saturnalia. For him the Saturnalian spirit is the essential matter (206). I feel safe agreeing with Nauta, however, for the timing, the motivation, and the occasion all fit.

3. Haarberg says that Bakhtin's "broad retrospective survey [is] the most exhaustive and convincing account of the Menippean genre characteristics" (110).

4. The *Apocolocyntosis* is measured up to this description in some detail in Riikonen's article (41-49).

5. Although the *Apocolocyntosis* is made up more of prose than poetry, Seneca makes use of epic hexameter in the section praising Nero (*Apocolocyntosis* 4; Eden "Commentary" 75).

6. Eden points out that the *Apocolocyntosis* and other "Council of the Gods" formats have been used to reconstruct Lucilius' "Council of the Gods," and he believes therefore that Lucilius cannot definitively be claimed as an influence (Eden "Introduction" 16,17). The fragments themselves have suggested the reconstruction, however, and it works. In my opinion, necessary reconstruction does not negate Lucilius' impact on Seneca. The other parallels discerned: vicious attack on an individual, and in one case, common phraseology, make the connection probable. I concur with the general consensus. Eden himself, despite his disclaimer, includes discussion on Lucilius as a possible precedent for the work.

7. I have chosen not to deal with Horace because although he did develop his own variation in Roman Satire, his style is not noted for directly influencing the genre Seneca used in the case at hand. The same is true for certain lesser known Roman writers.

8. The exact date is not known. Griffin has established his birthdate as between 4 and 1 B.C. See *Seneca* 35,6 for discussion.

9. Lucan's work *Bellum Civile* is still extant.

10. This was the most grievous, because of all the tragedies Seneca lists, this is the only one which could be reversed. Thanks to Dr. Diane Harris for the insight.

11. And he does see it as a *manly* characteristic: See *Ad Helviam* 16.105; *Ad Marciam* 1.1.

12. AD43: this passage dates the essay.

13. Agrippina dispensed with Britannicus' tutor Sosibius because she saw in him a threat to her own faction; she replaced him with someone sympathetic to her goals. This is evidence that she considered tutors of vital interest in politics (Dio 61.32.5)

14. In addition to the blatant comment about exile, *De Ira* criticised Claudius by the choice of subject as well. When compared with one of Claudius' edicts on anger and his distinction between *ira* and *iracundia* the reference seems unmistakable (*De Ira* 1.4p; Suetonius, *Claud.* 38; Momigliano "Seneca" 247; also Sullivan 126). In *De Brevitate Vita* Seneca criticizes the position of *praefectus annonae* and suggests to one of Claudius' most valued administrators that he give up his duties in favor of a contemplative lifestyle; Seneca also attacks certain pedant interests which Claudius was known to have had (*De Brev. Vita* 18 *passim*; Momigliano "Seneca" 246,47; Sullivan 127)

15. For further discussion on the ambiguities and power of an *amicus principis*, see Millar 110 *passim*.

16. See also Seneca's adherence to the official story offered after Claudius' death (see p. 72).

17. Compare with the flattery of Nero in the *Apocolocyntosis* (4). Again, it is found in the context of a didactic work, as well as in one which upholds official explanations.

18. For a thorough discussion of this inscription and how far back it may be projected see Brunt, 109-116.

19. See Appendix A for brief descriptions of each work referred to in this discussion.

20. Seneca intended to write this treatise in three books, addressing respectively "the remission of punishment," "the nature and aspect of mercy," and "how the mind is led to adopt this virtue" (3.1), but only Book I and the beginning of Book II are extant (see Griffin *Seneca* 151,52)

21. Griffin points out that the murder of Britannicus was a private as opposed to a public immorality, which Nero had not yet indulged in (*Seneca* 135). See her discussion 135-7 on Seneca's rationale for writing this work.

22. Apart from providing a model for Nero, Augustus was a wise choice for propaganda purposes. Note the correspondence with the *Apocolocyntosis* 10,11

23. According to the Digest (48.9), the traditional punishment for a crime of parricide was to put a man into a bag with a dog, a rooster, a snake, and a monkey, and to throw it into the deep sea.

24. Griffin notes a development in Seneca's theory between the writing of *De Ira*, where Seneca advocated capital punishment as a device either to set an example or to wipe out danger in the state, and *De Clementia*, where he advocates the least harsh punishment conceivable under the circumstances. This transition points to original thinking and theorizing on Seneca's part (*Seneca* 169)

25. I can find no explicit statement by Seneca himself to this effect, other than in the *Apocolocyntosis*. However, it reflects his general attitude, and the unanimity he and Burrus maintained in counseling Nero makes Burrus an appropriate second choice.

26. For a recent discussion on the validity of this last document, see Griffin "Claudius" 494-499).

27. Other documents which temper the picture related to us are above all: A letter written to the people of Alexandria concerning proposed honors for Claudius and the judgments concerning the Jewish minority in that city (Smallwood Documents 370; Trans. Lewis 96); two senatorial decrees from Herculaneum concerning speculation on property (Smallwood Documents 365; Trans. Miller Inscriptions 31); inscriptions in Volubilis, Mauritania, commemorating their reception of Roman citizenship and other benefits from Claudius (Smallwood Documents 407; Trans. Miller Inscriptions 32).

28. Suetonius records in his biography of Galba that Claudius allowed a recess in winter (14).

29. The speech recorded on the bronze tablets, rather than generalizing, lists specific Roman historical examples of foreigners being adapted into the Roman system and even ruling. Claudius calls Augustus' and Tiberius' inclusion of "all the best men from colonies and municipalities everywhere" into the senate an "innovation," and he uses this as a precedent for his own actions (Smallwood Documents 369; Trans. Miller Inscriptions 34).

30. Garzetti emphasises instead the ridicule surrounding Claudius' edicts: see pp. 136 *passim* for discussion.

31. For further discussion on actual legislation see Levick pp. 120-126. Also see Dio 60.25.7

32. Garzetti states that the 10,000 sesterces maximum fee remained in force until Diocletian (138). As he does not note his grounds for this statement, and since this contradicts the legislation passed in the senate mentioned by Tacitus, I will let the contradiction stand.

33. See Appendix D.

34. See Eden's "Commentary" pp. 152-155 for further discussion.

35. See Bringmann "Politische" pp. 66,7 for a slightly varying interpretation of the passage on the senate.

36. See Marti 29, 30; Currie 91; Eden "Introduction" 8-12; Bringmann "Forschungsbericht" 885-900 for surveys of the theories proposed. See Coffey, Lustrum 239-271 and Bringmann "Forschungsbericht" for further bibliography.

37. Domitia Lepida can be discerned by her relationship in the *Apocolocyntosis* but she is unmentioned by name (*Apoc.* 13.5). She was formally charged and "sentenced," which implies a formal trial (Tacitus *Ann.* 12.64.5). Valerius Asiaticus, also unmentioned by name, may possibly be detected in an oblique reference, "[Claudius] will not know what he is doing in his own bedroom," since Asiaticus' trial was infamous for having taken place in a bedroom (*Apoc.* 8.3; Tacitus *Ann.* 11.28; Eden "Commentary" 105). Both of these people can be included under the general bracket of "the others whose number cannot be calculated," and "the others, 'as many as grains of sand and specks of dust'," but I believe that since they experienced trials, Seneca avoided mentioning them by name. Note that the other blatant insurrection against Claudius, led by Scribonianus and Vinicianus, is significantly missing from Seneca's list as well (see above 62).

38. This point also argues against revenge as a simple motive for Seneca.

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APPENDIX A

SENECA'S WORKS

I follow Miriam Griffin's semi-chronological organization (see Griffin *Seneca* pp. 395-411 for further discussion). Only works referred to in this paper are included

Written under Claudius, between 41 and 49

Consolatio Ad Helviam Matrem: The polished letter which Seneca wrote to his mother from exile and which contains admonitions to accept negative fortunes in a Stoic manner. Traditionally believed to be written within the first ten months of exile, Griffin emphasises that it was written after Seneca had been in exile for some time.

Consolatio Ad Polybium: The sycophantic letter Seneca wrote to Polybius, Claudius' influential freedman, upon the death of Polybius' brother. Seneca includes blatant flattery of Claudius and less than subtle hints about his release from exile. This was written just before the British triumph, which has been dated to AD44.

Epigrammata de exilio: Epigrams composed during Seneca's exile (AD41-49).

De Ira ad Novatum: A treatise on anger which is believed to have been written for the most part during Seneca's exile but published when he returned to Rome under the protection of his patroness Agrippina. Griffin gives the date as AD52

Written under Claudius or Nero

De Brevitate Vita ad Paulinum: Seneca holds forth the blessings of a life of retirement as opposed to a rich life of worldly business. Griffin believes it was written to provide a pretext for Paulinus to retire from official duties for political reasons (320). She argues strongly for a date of AD55 during Paulinus' duties in the office of *praefectus annonae*.

De Constantia Sapientis ad Serenum: Answers Serenus who scoffs at Stoic doctrine. Seneca points out the advantage of being the Stoic "wise man" in times of adversity. Griffin dates this as after AD 47; it may have even been written during his exile.

De Tranquillitate animi ad Serenum: Seneca supplies remedies for anxiety of spirit to men who are progressing toward wisdom and have not yet achieved inner peace (Griffin 321-327). Griffin dates the work after *De Constantia Sapientis* but before Seneca's retirement in 62, probably in preparation for his gradual retirement from political activities (357). Momigliano places this after the accusations of Suillius (AD58) because Seneca includes an apologia for his seeming (or real) inconsistencies ("Seneca" 252)

De Otio: The manuscripts are incomplete. What is left argues for the validity of a Stoic choice to live a life away from the pressures and duties of political life. Griffin places it after *De Constantia Sapientis*

Under Nero before Retirement in 62

Apocolocyntosis: The work in question: AD54.

De Clementia ad Neronem: This treatise was addressed to Nero in the early years of his emperorship. It contains praise for the new emperor (flattery?) as well as admonitions toward maintaining a wise and just rule. In some ways it parallels the message in the *Apocolocyntosis* AD55 or 56.

De Vita Beata ad Gallium: This treatise addressed the question of how to achieve supreme happiness. It was written after the accusations by Suillius and addresses many of the charges of hypocrisy which had been made against Seneca. Griffin merely places it before Seneca's retirement and under Nero. Sullivan dates it to AD59.

De Beneficiis ad Aebutius Liberalis: This long work of seven books on the subject of giving and receiving was written certainly after Claudius had died (see the direct deprecatory comment at the end of Book I), probably in several stints over a period of years. Sullivan dates it to AD57.

Written under Nero after Retirement in 62

Naturales quaestiones ad Lucilius: Scientific dissertations; prefaces include some revealing autobiographical remarks.

Epistulae Morales ad Lucilius: Letters usually containing admonition to good and moral personal living. Some scholars have found veiled criticisms of Nero within them (Griffin 360; also fn.4)

APPENDIX B

LANGUAGE OF JUSTICE, LAW, AND OFFICIAL PROCEDURE IN THE *APOCLOCYNTOSIS*

- 1.1 * *Quid actum sit ... ante diem III idus Octobris* "the business transacted ... on the thirteenth of October" ... official language (Eden "Commentary" 63).
 * *Nihil nec offensae nec gratiae dabitur* "No concession will be made to umbrage taken or favour granted" This is a claim to truthful representation of the facts, more typical of historians than lawyers, but feeds into the justice theme (Eden "Commentary" 65)
 * *haec ita vera* "This is the authentic truth"
- 1.2 * *Quis umquam ab historico iuratores exegit?* "Whoever demanded sworn referees from a historian?" A *iurator* was a civil servant who received the sworn returns at a census (Eden "Commentary" 64.5)
 * *quarito* "let the inquirer ask" in the future imperative carries a "legal ring" (Eden "Commentary" 65)
- 1.3 * *in senatu iuravit* "swore in the senate"
 * *verbis conceptis affirmavit se non indicaturum etiam si in medio foro hominem occisum vidisset* "he affirmed in measured terms that he would make no disclosure, even if he had seen a man murdered in the middle of the Forum". *Verbis conceptis* connotes binding legal language (Eden "Commentary" 67), and *indicaturum* refers to evidence offered in court.
 * *certa clara* "plain and clear": an "alliterative quasi-legal phrase of popular speech" (Eden "Commentary" 68)
- 4.1 * *legum que silentia rumpet* "break the silence of the laws".
- 5.1 * *quae in terris postea sint acta* "the subsequent proceedings on earth"
 * *in caelo quae acta sint audite* "listen to the proceedings in heaven"
 * *fides penes auctorem erit* "vouching for them will be the responsibility of my informant"
- 6.1 * *ego tibi recipio* "I give you my pledge"
- 6.2 * *duci iubebat* "he kept ordering ... to be taken away for punishment"
 * *illo gestu ... quo decollare homines solebat iusserat illi collum praecidi* "With that gesture he employed to decapitate people ... he had given the order for her neck to be severed."
- 7.4 * *adfuturum esse* "be present and support", often used of supportive witnesses in a court setting (Eden "Commentary" 96).
 * *notorem* "a witness who vouches for someone's identity" (Eden "Commentary" 96)
 * *ius dicebam* "I used to dispense the law."
- 7.5 * *quantum illic miseriarum ego contulerim cum causidicos audirem ...* "what a pile of pathetic complaints I sifted there, when I was listening to the barristers ...". *Causidicos* is a pejorative term (Eden "Commentary" 97).
- 8.1 * The setting has changed to a *concilium deorum* comparable to the Roman senate which had the authority to make law and to hear certain cases. They deliberate on the question whether Claudius qualified to become a god.
- 8.2 * *damnavit incesti* "he convicted of incest"
- 9.1 * *privatis intra curiam morantibus senatoribus non licere sententiam dicere nec disputare* "Senators were not allowed to put a motion or to debate while members of the public lingered inside the senate-house": procedural language

- * *volo ut servetis disciplinam curiae* "I require you to keep the rules of procedure of the senate-house."
- 9.2 * *primus interrogatur sententiam* "the first to be asked his opinion"
- 9.3 * *ne videar in personam, non in rem dicere sententiam* "so as not to appear to express an opinion on a question of personality rather than principle."
 * *quae notarius persequi non potuit et ideo non refero, ne aliis verbis ponam quae ab illo dicta sunt.* "which the shorthand secretary could not keep up with and which therefore I do not report, so as not to put in other words the things that were said by him." The narrator by this pretence of giving the truth reinforces the claim that he is telling the "authentic truth" (1.1). In fact no historian bothered with verbatim reporting of speeches (Eden "Commentary" "Commentary" 109)
 * *censeo* "I move": technical language of senatorial decrees (Eden "Commentary" 110).
 * *qui contra hoc senatus consultum deus factus dictus pictusve erit.* "Anyone who is made, mentioned, or portrayed as a god contrary to this decree of the senate . . .": technical language of a senatorial decree (Eden "Commentary" 110)
- 9.4 * *auriculam illi tetigit.* "touched his ear-lobe." This was a gesture which was intended to call something to mind, and became a traditional way of calling a witness, who was supposed to remember what he had seen and heard (Eden "Commentary" 112,13).
 * *Is multa diserte, quod in foro vivebat* "he was living in the forum and so spoke a lot glibly." The forum was the "forensic center" of Rome, and courts were often held there (Eden "Commentary" 109).
- 9.5 * *iussit* "he commanded"
 * *optimo iure factus sit* "became one with the best justification"
 * *censeo* "I move"
 * *sitque e re publica* "since it is in accordance with the interests of the state": formal senatorial language (Eden "Commentary" 114).
- 10.1 * *sententiae suae loco dicendae* "at his turn for expressing his opinion"
 * *vos testes habeo* "I have you as witnesses"
 * *legibus urbem fundavi* "I gave the city . . . a foundation of laws"
- 10.4 * *videbis* "you will judge"
 * *causa mala* "case . . . faulty"
 * *si aequos futurus es* "if you are going to be fair"
 * *antequam de causa cognosceres* "before you could examine the case"
 * *antequam audires, damnasti* "before you heard (the evidence) . . . did you convict?"
 * *hoc ubi fieri solet?* "Where is the customary practice?" (Referring to legal procedure)
- 11.4 * *si nulli clarius respondi* "if I have given no reply to anyone too directly": "a technical term of religion and law, 'to give a considered or formal reply to a consultant'" (Eden "Commentary" 125).
 * *vidicate iniurias meas* "avenge the wrongs done me"
 * *ego pro sententia mea hoc censeo* "This is the motion I put as my considered opinion"
 * *ex tabula recitavit* "he read out from his notepad." According to senatorial procedure, a senator could read out a proposal which could be accepted verbatim by the senate and made into law (Eden "Commentary" 125,6)

- 11.5 * *placet mihi in eum severe animadverti* "my proposal is that he be severely punished"
 * *nec illi rerum iudicandarum vacationem dari* "and not given exemption from due process of law"
 * *pedibus in hanc sententiam itum est* "members stepped out to support this proposal"
 * *collo oborto* "with his neck twisted": a phrase used for people being led off to receive their justice (Eden "Commentary" 127).
- 12.2 * *causidici* "barrister"
 * *iurisconsulti* "legal consultants"
 * *causidicos* "barristers"
- 12.3 * *iussit* "he ordered"
 * *discere causas, unam partem audita* "master his briefs, after hearing only one side of the case"
 * *iudex* "judge"
 * *sede* "seat" - in the context, the judges' seat.
 * *tibi iam cedit sede relicta qui dat populo iura silenti, Cretaea tenens oppida centum* "He who gives rulings to the people of silence, holding sway over a hundred cities of Crete" is a reference to Minos, king of Crete and judge of the dead (see Eden "Commentary" 135).
 * *causidici* "barristers"
- 13.1 * *inicit illi manum* "laid a hand on him": legal terminology (Eden 135).
- 13.4 * *duci iusserat* "had ordered to be led"
- 13.6 * *interfector* "murderer"
 * *in ius eamus* "Let's go to the court."
 * *sellas* "magistrates' benches": seat of the presiding magistrate (Eden "Commentary" 143).
- 14.1 * *tribunal Aeaci* "judgment seat of Aeacus": infernal judge (Eden "Commentary" 144)
 * *lege Cornelia quae de sicariis lata est* The Cornelian law "enacted about murderers" - this law established by Sulla, punished murderers, attempted murderers, and those who had unjustly sentenced people for capital crimes (*Inst. Iustin.* 4.18.5; *Dig.* 48.8 passim, Eden "Commentary" 144).
 * *quaerebat* "was investigating cases." Judicial murder was tried in the court of the *questio de sicariis* (Eden "Commentary" 144).
 * *postulat nomen eius recipiat, edit subscriptionem* "Peto requested... to enter (Claudius') name as a guilty party, and issued his indictment." This was Roman court procedure (Eden "Commentary" 144).
- 14.2 * *advocatum* "lawyer"
 * *postulat advocacionem* "demanded an adjournment"
 * *non datur* "It was not given," i.e., permission for an adjournment. See *placet... nec illi rerum iudicandarum vacationem dari* (11.5; Eden "Commentary" 145).
 * *accusat* "delivered his prosecution"
 * *patronus* "defence-council"
 * *homo iustissimus, vetat* "the essence of justice, told him not to"
 * *altera tantum parte audita condemnat* "and condemned [Claudius] with only one side of the case heard"
 * Greek quotation "Shouldst thou suffer what thou wroughtst, justice would

be done direct."

- 14.3 * *novitate rei* : in context it refers to the "unprecedented ruling."
 * *magis iniquum videbatur quam novum* "seemed more unfair than unprecedented"
 * *de genere poenae diu disputatum est, quid illum pati oporteret.* "There was a long discussion about the type of penalty, and what he ought to suffer"
- 14.4 * *non placuit* "no resolution was carried"
 * *placuit novem poenam constitui deber* "It was resolved that a novel penalty be instituted."
 * *Aeacus iubet* "Aeacus ordered"
- 15.2 * *producit testes* "He brought forward witnesses."
 * *adiudicatur* "The adjudgment was made."
 * *cognitionibus* "secretary for petitions" - a clerk which researched law cases, probably a position initiated by Claudius (Eden "Commentary" 150).

APPENDIX C

THE JUSTICE CRITIQUE IN THE *APOCOCYNTOSIS* CORRELATED WITH OTHER SOURCES

CASES WITHOUT PROPER HEARINGS

In *Apocolocyntosis*:

- 10.4 "Tell me, deified Claudius, why did you convict any of these men and women, whom you killed, before you could examine the case, before you could hear the evidence?"
- 12.3 "Lament for the man than whom no other could more quickly master his briefs, after hearing only one side of the case, and often neither"
- 14.2 "The defence-counsel showed signs of wanting to reply. Aeacus, the essence of justice, told him not to, and condemned Claudius with only one side of the case heard, quoting 'Shouldst thou suffer what thou wroughtst, justice would be done direct.'"
- 14.3 "Everybody was struck dumb, shattered by the unprecedented ruling, and said that this had never been done before. Claudius thought it unfair rather than unprecedented"

In other sources:

Suetonius: *Claud* 15

Dio: If people did not show up, Claudius ruled against them (60.28.6).

Claudius' speech to the senate (Smallwood Documents 367; Scramuzza 110.11)

PERSONAL AND ARBITRARY JUDGMENT

In *Apocolocyntosis*:

- 4.1 "[Nero] will break the silence of the laws."
- 8.3 "savages now worship him and, as if he were a god, pray 'to happen on the fool when well-disposed?'"
- 9.3 "So as not to appear to express an opinion on a question of personality rather than on principle..."
- 10.4 "Where is this the customary practice?"
- 12.2 "Legal consultants were making their way out of the shadows, pale, emaciated, and with scarcely a breath in their bodies, like men at the very point of coming to life again. One of these after seeing the barristers putting their heads together and bewailing their misfortunes, went up and said, 'I kept on telling you that Carnival time would not last forever.'"

In other sources:

Suetonius: Guided by sense of equity: court decisions "varied unpredictably" (*Claud* 14.15)

Tacitus: Claudius arbitrarily dispensed the law *Ann* 11.5

Dio: Rarely turned cases to other courts (60.4.4). "He became so used to settling all these matters by his judgment and not by precedent that he arranged other affairs in the same manner" (60.5.6). allowed personal grievances to enter his decisions (60.3.7). Although note that at the beginning of his reign he reinstated the use of councillors (Dio 60.4.2)

HYPERACTIVITY IN COURT

In *Apocolocyntosis*:

- 7.4 "It was I who used to dispense the law, you know, in front of your temple for entire days in the month of July and of August. You know what a pile of pathetic complaints I sifted there when I was listening to the barristers day and night."
- 12.2 "He who gives rulings to the people of silence, holding sway over a hundred cities of Crete, will now give place to you, leaving his seat."
- 12.3 "Who will now listen as judge to lawsuits the whole year round?"
- 13.6 "Let's go to court. I will show you the magistrate's benches here."

In other sources:

Suetonius: Sat in court daily; held courts year round (*Claud.* 14.23; *Galba* 14)
 Dio: Held court daily, even when children got married, had birthdays, and on holidays (60.4.3; 5.8, 25.7.8).

DISORDER IN COURT

In *Apocolocyntosis*:

- 9.1 "I require you to keep the rules of procedure of the senate-house. What opinion has this man formed of us, whatever his status?"
- 14.2 "Peto Pompeius delivered his prosecution amid loud shouts"

In other sources:

Suetonius: examples of disorder (*Claud.* 15.33,38,40).

HASTY JUSTICE

In *Apocolocyntosis*:

- 12.3 "Lament for the man than whom no other could more quickly master his briefs"

In other sources:

Suetonius: *Claud.* 15
 Tacitus: Sudden justice for Messalina and conspirators (*Ann.* 11.26-38).
 Dio: "Suddenly" killed Appius Silanus (60.14.4; 15.1)

NOVEL PENALTIES

In *Apocolocyntosis*:

14.4 "It was resolved that a novel penalty be instituted. . ."

15.2 "Gaius handed him over to his freedman Menander to be his secretary for petitions."

In other sources:

Suetonius: Examples (*Claud.* 14, 23, 34).

Josephus: Tribune sentenced "to Jewish outrage" (*BJ* 2.12.11; *AJ* 20.6.2,3)

Dio: Threw inept speaker into a river (60.33.8)

Claudius may have been the first to initiate the use of secretaries for petitions:
see Eden "Commentary" 150.

CLAUDIUS UNAWARE

In *Apocolocyntosis*:

11.1 "'I don't know' you say? May the gods curse you: the fact that you didn't know is far more disgraceful than the fact that you killed"

In other sources:

Suetonius: Examples (*Claud.* 29, 37, 39).

Tacitus: Ignorant of Messalina's dalliances (*Ann.* 11.13.25); other cases where Claudius was manipulated into action without knowing crucial things (*Ann.* 11.2-5, 35-8; 12.2-4, 65)

Dio: Ordered deaths and then forget he had done it: 60.31.4; also 2.4).

ADVOCATES

In *Apocolocyntosis*:

12.2 "Agatho and a few barristers were wailing, but obviously with sincerity"

12.3 "Pound your breasts with hands of sorrow, you venal tribe of barristers. . ."

14.2 "Claudius could not find an advocate."

In other sources:

Tacitus: Decides to allow advocates to collect fees (*Ann.* 11.5-7; 13.5).

Suetonius: *Nero* 17

UNNECESSARY CRUELTY AND MURDER

In *Apocolocyntosis*

- 3.1 "Cruellest of women why are you letting the wretched man be racked? Is he never to have a rest after being tortured for so long?"
- 4.4 A quote more fitting to describe Claudius: "There I sacked the city and destroyed the people."
- 6.2 "With that gesture he employed to decapitate people, made by his shaking hand, which was steady enough for this single purpose, he had given the order for her neck to be severed."
- 10.3 "This man, honorable members, who gives you the impression of not being able to startle a fly, used to kill people as effortlessly as a dog squats on its haunches."
"[Claudius] killed two Julias... one by the sword, the other by starvation, and... L. Silanus."
- 11.1 Jupiter never killed anyone. But "You killed Messalina..."
- 11.2 "Claudius did not stop making Gaius Caesar his target after his death. Gaius had killed his father-in-law; Claudius killed a son-in-law as well. Gaius forbade Crassus' son to be called "the Great." Claudius gave him back his name but took away his head. In one family he killed..."
- 11.3 "'Whereas the deified Claudius killed his father-in-law Appius Silanus, his two sons-in-law Pompeius Magnus and Lucius Silanus, his daughter's father-in-law Crassus Frugi, ... Scribonia his daughter's mother-in-law, his wife Messalina and the others whose number cannot be calculated, my proposal is that he be severely punished and not given exemption from due process of law..."
- 13.6 "What are you talking about you merciless man? ... Who else but you sent us here, you murderer of all your friends?"
- 14.1 Claudius' indictment: "Killed: senators, thirty-five; Roman knights, three hundred and twenty-one; the others 'as many as grains of sand and specks of dust'."

In other sources:

Suetonius: Examples (*Claud* 14, 34)

Dio: Gradually ordered more and more deaths, great numbers executed; used gladiatorial combat as punishment and loved watching it (60.13.1-4; 14.1, 2)

Seneca: Claudius used the sack for punishment for parricides (*De Clem* 23.1)

See Appendix D for details of deaths

APPENDIX D

VICTIMS NAMED IN THE *APOCOCYCYNOSIS* WITH CIRCUMSTANCES OF DEATH

RELATIVES

G. Appius Iunius Silanus (husband of Messalina's mother)

Apocolocyntosis 11.5; 13.5

Suetonius: Plan of Narcissus and Messalina. They woke up Claudius in early morning, both recounting the same dream of A. Silanus violently attacking Claudius. In the meantime they sent A. Silanus a summons to visit Claudius, and when he came, someone announced that he was forcing his way into the royal chambers. They hoped this would make Claudius immediately accuse him of murder and sentence him to death. "The plan worked." Claudius praises Narcissus the next day in the senate for his constant vigilance (*Claud.* 37). Claudius executed him "on unsupported charges and without the right to plead in self-defence" (*Claud.* 29).

Dio: Claudius "suddenly" killed him after Narcissus related a dream and Messalina exaggerated its significance (60.14.4; 15.1).

Tacitus: Narcissus had contrived the death of A. Silanus (*Ann.* 11.29).

Lucius Iunius Silanus Torquatus (engaged to Octavia, Claudius' daughter)

Apocolocyntosis 8.2, 3; 10.4, 11.5, 13.5

Suetonius: L. Silanus had orders to commit suicide four days after he lost his praetorship (*Claud.* 29).

Dio: Agrippina feared the power of Silanus and wanted Octavia for Nero's wife, so she and the freedmen persuaded Claudius that Silanus was plotting against him. Silanus was put to death (60.31.8).

Tacitus: To favor Agrippina, Vitellius convinced Claudius that L. Silanus was having an incestuous affair with his sister. Being censor, Vitellius struck Claudius off the senate, he had to resign his praetorship, and Claudius cancelled Octavia's engagement. L. Silanus committed suicide on Claudius' and Agrippina's wedding day (*Ann.* 12.3, 4, 5, 8); later Tacitus remarks that L. Silanus was murdered "at [Agrippina's] hands" (13.1).

Licinius Crassus Frugi, Scribonia

(father and mother of Claudius' son-in-law Pompeius Magnus)

Apocolocyntosis 11.2, 5; 13.5

No references to either of their deaths

Gnaeus Pompeius Magnus

(son of Crassus and Scribonia, husband of Claudius' daughter Antonia)

Apocolocyntosis 11.2, 5; 13.5

Suetonius: Claudius had him put to death (*Claud.* 27); he was stabbed to death while in bed with a favorite boyfriend (*Claud.* 29).

Dio: Claudius put him to death on false charges brought by Messalina. She opposed him because of his family (60.29.6a).

Tacitus: Magnus had been put to death by Caesar (*Hist.* 1.14, 48).

Livia Julia (Daughter of Drusus, son of Tiberius)

Apocolocyntosis 10.4, 13.5

Suetonius: Claudius "executed... [her] on unsupported charges and without the right to plead in self-defence" (*Claud* 29)

Dio: Messalina, being jealous of Julia, "caused her to be slain" (60.18.4).

Tacitus: "...murder, by Messalina's intrigues" (*Ann* 13.32); Suillius in a court case was accused of driving L. Julia to her death. In his defence, he claimed that it was under Claudius' orders, and when this defence failed, he claimed that he had done it under those of Messalina (*Ann* 43).

Julia Livilla

(daughter of Germanicus, Claudius' brother, and adopted son of Tiberius)

Apocolocyntosis 10.4, 13.5

Suetonius: Claudius "executed... [her] on unsupported charges and without the right to plead in self-defence" (*Claud* 29).

Dio: Messalina was envious of her and saw her as a threat: "she secured her banishment by trumping up various charges against her, including that of adultery (for which Annaeus Seneca was also exiled), and not long afterward even compassed her death" (60.8.5). Messalina then thought that Vinicius, Julia's husband, had suspected that she had killed his wife, so Messalina poisoned him (60.27.4).

Tacitus: Julia Livilla had been banished by Claudius (*Ann* 14.63)

Valeria Messalina (Claudius' wife)

Apocolocyntosis 11.1, 5

Suetonius: Claudius executed Messalina (*Claud* 26; 39).

Dio: Claudius "slew Messalina herself after she had retreated in the gardens of Asiaticus" (60.31.5).

Tacitus: Vibidia, senior priestess of Vesta, "demanded most indignantly that a wife should not be executed unheard." Narcissus promised that Messalina would be given a chance to clear herself (11.34). Claudius ordered at dinner that she should be heard the next day, and Narcissus then went behind his back and gave the order to kill her, ostensibly on the orders of Claudius. An officer ran her through in the garden; news was brought to Claudius while he was still at dinner (11.37.8).

THE CONSPIRATORS WITH MESSALINA AND SILIUS

These are treated in a group both in Tacitus and in the *Apocolocyntosis*, though there are some un-correlated names in each list. After Claudius had been informed of the conspiracy, people were rounded up by staff-officers of the Praetorian Guard, "in the streets or in hiding places" (11.32). Narcissus offered himself as commander of the Guard for one day only in order to protect Claudius' life (11.33). He "took charge," and conducted Claudius to the camp where the guard was assembled. Narcissus gave a preliminary statement; Claudius said only a few words, as he was almost unable to speak (11.35). The guard kept shouting for "offenders to be named and punished" (11.35). [Tacitus *Ann.* 11.26-38].

Gaius Silius (Messalina's lover)

Apocolocyntosis 13.4

Suetonius: Mentions the conspiracy but does not mention his particular death (*Claud* 26, 29, 36)

Dio: Mentions his involvement in the conspiracy but no details on his particular death (60.31.1-5).

Tacitus: When Silius was brought to the platform, he did not attempt to defend himself or postpone his fate, but asked for a quick death (11.35)

Juncus Vergilianus (Junior senator)

Apocolocyntosis 13.4

Tacitus: "Execution of accomplices was ordered": Juncus included in the list.

Sextus Traulus (young knight)

Apocolocyntosis 13.4

Tacitus: His defence was also rejected: i.e., he paid the death penalty (11.36).

Saufeius Trogus (knight)

Apocolocyntosis 13.4

Tacitus: Execution ordered as accomplice (11.35).

Marcus Helvius Cotta Fabius

Apocolocyntosis 13.4

Otherwise unknown

Vettius Valens (Roman knight)

Apocolocyntosis 13.4

Tacitus: He confessed. Executed as accomplice (11.35).

Mnester (Famous ballet dancer; Messalina's lover)

Apocolocyntosis 13.4

Dio: Upon Claudius' arrival he immediately slew Mnester, among others (60.31.5)

Tacitus: Mnester tore off his clothes to show whip marks and asked Claudius to remember that he had participated under compulsion. Claudius was inclined to show mercy, but the freedmen argued that after executing prominent men, he should not let a ballet dancer go free. Mnester was executed (11.36).

FREEDMENPolybius

(One of Claudius' most trusted freedman, his "literary mentor")

Apocolocyntosis 13.5

Dio: Falsely accused by Messalina and put to death (60.31.2)

Arpocras

Apocolocyntosis 13.5

Details of death unknown.

Myron, Amphius, Pheronaotus

Apocolocyntosis 13.5

Otherwise unknown.

PREFECTS OF THE PRAETORIAN GUARDIustus Catonius

Apocolocyntosis 13.5

Dio: Messalina "put him out of the way" before he could tell Claudius about her lifestyle (60.18.3).

Rufrius Pollio

Details of death unknown.

PRIVY COUNCILLORSSaturninus Lusius, Cornelius Lupus

Apocolocyntosis 13.5

Tacitus: Both were "struck down" by Publius Suillius Rufus, according to accusations directed toward the man. Tacitus says that "in a word, [he was accused] of all the brutalities of Claudius." Suillius indeed did blame Claudius, and then Messalina in turn for giving the orders for these deaths. Nero checked Claudius' records, and in fact there were none ordering the deaths of these men (*Ann* 13.43).

Pedo Pompeius

Apocolocyntosis 13.5

Otherwise unknown.

Celer Asinius

Apocolocyntosis 13.5

Details of death unknown.